U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 18083801

Date: APR. 06, 2022

Motion of Administrative Appeals Office Decision

Form I-212, Application for Permission to Reapply for Admission

The Applicant seeks approval of her application for permission to reapply for admission to the United States under section 212(a)(9)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(iii).

The record establishes that in 2001, the Applicant attempted to enter the United States with a fraudulent passport and was expeditiously removed. In 2004, the Applicant misrepresented her prior immigration history and marital status when procuring a visitor's visa, which she used to enter the United States in 2004, 2005, 2006, and 2009. The Applicant is inadmissible under section 212(a)(9)(A)(i) of the Act, as a noncitizen who has been ordered removed under expedited removal, departed the United States, and seeks admission within five years of the date of such departure. The Applicant was also found inadmissible for crimes involving moral turpitude under section 212(a)(2)(A) of the Act, and for fraud or misrepresentation under section 212(a)(6)(C)(i) of the Act.

The Director of the Philadelphia, Pennsylvania Office denied the Applicant's Form I-601, Application for Waiver of Grounds of Inadmissibility (I-601), concluding that the record did not establish that denial of admission would result in extreme hardship to the Applicant's qualifying relative, or that the Applicant merits a favorable exercise of discretion. We dismissed an appeal of the denial of the I-601, finding that the Applicant was not eligible for a waiver because she did not demonstrate that her spouse would experience extreme hardship.[1]

The Director also denied the Applicant's Form I-212, Application for Permission to Reapply for Admission (I-212), as a matter of discretion. We dismissed a subsequent appeal, concluding that no purpose would be served in granting the application because the Applicant's waiver application was denied and she remains inadmissible under sections 212(a)(2)(A) and 212(a)(6)(C)(i) of the Act. *See Matter of Martinez-Torres*, 10 I&N Dec. 776 (Reg'l Comm'r 1964). The matter is now before us on a motion to reconsider.

A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the

[1] In a separate decision, we dismissed a subsequent motion to reconsider our decision dismissing the appeal of the Applicant's I-601.

time of the decision. 8 C.F.R. § 103.5(a)(3). We do not consider new facts or evidence in a motion to reconsider.

On motion, the Applicant asserts that we erred in ignoring evidence that denial of her admission would result in extreme hardship to her spouse, and that she warrants a favorable exercise of discretion in review of her I-212.

The Applicant has not established that our previous decision was based on any incorrect application of law or policy. Accordingly, the Applicant has not shown proper cause for reconsideration of that decision. We will therefore dismiss the motion to reconsider.

The Applicant bears the burden of proof to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). The Applicant has not done so in this motion.

ORDER: The motion to reconsider is dismissed.