



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 20899739

Date: MAR. 11, 2022

Motion on Administrative Appeals Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant seeks to adjust status to that of a lawful permanent resident, based on an approved Form I-130, Petition for Alien Relative, that her U.S. citizen spouse filed on her behalf. She has also filed an Application for Waiver of Grounds of Inadmissibility, Form I-601, seeking a waiver of inadmissibility for fraud or misrepresentation under Section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i). *See also* Section 212(a)(6)(C)(i) of the Act. The Applicant has not contested her inadmissibility for fraud or misrepresentation. *See id.*

The Director of the Pittsburgh, Pennsylvania Field Office denied the Form I-601 waiver application on two separate grounds. First, the Director concluded that the Applicant did not establish extreme hardship to her spouse, who is her sole qualifying relative for the waiver purposes. Second, the Director determined that she did not show she warranted a favorable exercise of discretion, because “[her] misrepresentations were not isolated, singular incidents, but numerous, and spanning the period of 15 years before multiple governmental bodies – [U.S. Citizenship and Immigration Services (USCIS)], the Executive Office [for] Immigration Review, and the Board of Immigration Appeals.” The Director stated that the Applicant’s “actions demonstrate total disregard for the laws of the United States and call[] into question the credibility and veracity of any testimony that [she has] provided in support of [her] case.” Upon an examination of all factors, including negative and positive ones, the Director found that she did not warrant a favorable exercise of discretion. *See* Section 212(i)(1) of the Act (providing that even if an applicant can demonstrate the required hardship, he or she must still show that USCIS should favorably exercise its discretion and grant the Form I-601 waiver application).

We dismissed the Applicant’s appeal and her subsequent combined motions to reconsider and reopen the proceeding. As explained in both our appellate decision and motion decision, the Director’s denial of the Form I-601 waiver application was based on the two separate grounds, which we have reiterated above. Each alone renders the Applicant ineligible for the application. The Applicant did not address the Director’s second ground, as relating to discretion, in either her appeal or first motion filing. As such, we dismissed both her appeal and her combined motions on that second ground, declining to reach the Director’s first ground for denial, as relating to claimed hardship to her spouse. In our previous motion decision, citing our appellate decision, we explained: “In our appellate decision, regarding the discretion issue, we stated: ‘The Applicant does not address this finding on appeal and

we agree with the Director that a favorable exercise of discretion is not warranted.’ Because the Applicant’s appeal did not address a dispositive issue, we concluded that ‘there is no constructive purpose to addressing whether the Applicant established extreme hardship to her spouse because it cannot change the outcome of the appeal.’”

The matter is again before us on motion. The Applicant now submits a motion to reopen the proceeding and offers additional evidence relating to her claim that the denial of the Form I-601 waiver application would result in extreme hardship to her spouse. The evidence on motion relates to the Director’s first ground for denial. *See* Section 212(i)(1) of the Act. The Applicant again makes no reference to the Director’s second ground for denial, as relating to discretion. *See id.* Upon review, we will dismiss the instant motion.

The relevant regulation provides that “[a] motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence.” 8 C.F.R. § 103.5(a)(2). Reasserting previously stated facts or resubmitting previously provided evidence does not constitute “new facts.” In addition, by regulation, the scope of a motion is limited to “the prior decision.” 8 C.F.R. § 103.5(a)(1)(i). As such, the issue before us is whether on motion, the Applicant has stated new facts relating to the ground upon which we dismissed her last motion filing that would warrant a reopening of the proceeding.

As discussed, the evidence the Applicant now offers on motion relates to the issue of whether the denial of her Form I-601 waiver application would result in extreme hardship to her spouse. The Applicant has not presented documentation relating to the Director’s finding that she did not warrant a favorable exercise of discretion, which was the ground upon which we dismissed her appeal as well as her last motion filing. *See* Section 212(i)(1). As the Applicant’s instant motion similarly does not state new facts relating to the Director’s unfavorable discretionary finding, she has not satisfied the motion to reopen requirements under 8 C.F.R. § 103.5(a)(2). Specifically, she has not “state[d] new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence.” *Id.* Accordingly, we will dismiss her motion.

**ORDER:** The motion to reopen is dismissed.