



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

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

In Re: 25690660

Date: MAR. 30, 2023

Motion on Administrative Appeals Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, who has requested to adjust status to that of a lawful permanent resident, sought a waiver of inadmissibility for fraud or misrepresentation, which requires him to demonstrate that his refusal of admission would result in extreme hardship to a qualifying relative or qualifying relatives. *See* sections 212(a)(6)(C)(i) and 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1182(a)(6)(C)(i), 1182(i). The Director of the Atlanta, Georgia Field Office denied the application, concluding that the Applicant did not establish that the only qualifying relative, his U.S. citizen spouse, would experience extreme hardship if the Applicant is denied admission. The Director also found that the Applicant was inadmissible for unlawful presence under section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for which a similar waiver is available under section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v). We dismissed the Applicant's appeal as moot, concluding that he was not subject to either ground of inadmissibility identified by the Director. The Applicant now files a motion to reconsider our previous decision. Upon review, we will dismiss the motion.

A motion to reconsider must show that our prior 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 proceeding at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that meets these requirements and establishes eligibility for the benefit sought.

On motion, the Applicant asserts that we erred because we dismissed his appeal, rather than remanding the matter to the Director. Specifically, he contends that since we explicitly withdrew from the Director's inadmissibility findings and concluded that the Applicant was no longer inadmissible, we were required to remand the matter to the Director for further consideration of the Applicant's underlying application for adjustment of status based on a visa petition filed by his U.S. citizen spouse.

However, as stated, we dismissed the appeal of the denial of the Applicant's waiver request *as moot* because we determined that he was not inadmissible based on the two inadmissibility grounds he indicated on his application and as identified by the Director under sections 212(a)(6)(C)(i) and 212(a)(9)(B)(i)(II) of the Act. Consequently, he no longer required an approved Form I-601 waiver application in order to pursue his adjustment of status application. We therefore properly dismissed the Applicant's appeal of the denial of his Form I-601 as moot, an outcome that is in his favor.

The instant motion does not establish error in our previous decision. As the Applicant has not demonstrated that our prior decision was based on an incorrect application of law or policy, or that the previous decision was incorrect based on the evidence then before us, he has not met the requirements for a motion to reconsider. 8 C.F.R. § 103.5(a)(3).

ORDER: The motion to reconsider is dismissed.