



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

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

In Re: 27545001

Date: JUL. 20, 2023

Motion on Administrative Appeals Office Decision

Form I-601, Application for Waiver of Grounds of Inadmissibility

The Applicant has applied to adjust status to that of a lawful permanent resident (LPR) and seeks a waiver of inadmissibility under section 212(g)(2)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(g)(2)(C), for failure to present documentation of having received vaccination against vaccine-preventable diseases. The Director of the Washington Field Office in Fairfax, Virginia denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (waiver application), concluding that the record did not establish that he met the requirements for such a waiver. We dismissed the Applicant's appeal, and the matter is now before us on combined motions to reopen and reconsider. The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we will dismiss the motions.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish 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 proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

With his motions, the Applicant submits a brief, which includes an updated personal statement, and copies of news articles. In his brief, the Applicant contends that the vaccination against COVID-19 should not be considered applicable as COVID-19 is not a "vaccine preventable disease" as classified by the Director of the Centers for Disease Control and asserts that there are safety concerns regarding the COVID-19 vaccines. Additionally, the Applicant now claims that he is opposed to all vaccines, even though he received the flu shot and vaccinations against tetanus and diphtheria in 2021. The Applicant states that he was unaware at the time of his examination that he was required to be opposed to all vaccinations to be eligible for the waiver and thought that his "strong convictions for opposing the new [COVID-19] vaccine due to moral or religious reasons would have been considered[.]"

In our previous decision, incorporated here by reference, we informed the Applicant that the medical examination report submitted by the Applicant indicates that he recently completed vaccinations, specifically the influenza vaccine in October 2021 and the tetanus and diphtheria vaccine in December

2021. As the Director noted, the Applicant did not indicate an opposition to vaccinations in all forms at his adjustment of status interview. Finally, the Applicant's affidavit and supporting statement submitted with his appeal indicated that his objection was limited to the COVID-19 vaccination. From these facts, we determined that the Applicant had not established that he is opposed to vaccinations in any form, as required.

The Applicant contends that he has "lost trust in the pharmaceutical companies as well as the expertise of agencies in charge of protecting people's [sic] health and welfare as they have created a breach of trust with the people." While his statement on motion now indicates that he opposes all vaccines, his beliefs "must stem from religious or moral convictions and must not have been framed in terms of a particular belief so as to gain the legal remedy desired, such as this waiver." *See generally* 9 USCIS Policy Manual D.3(E)(2), <https://www.uscis.gov/policy-manual>. The Applicant's brief on motion again significantly concerns itself with the COVID-19 vaccination, specifically, and while he contends that he now opposes all vaccines, he also states that he was previously only concerned with the COVID-19 vaccination and "thought that would have been considered" sufficient to obtain the waiver. As such, he has not established by a preponderance of evidence that his convictions have not been framed to gain the legal remedy desired.

Although the Applicant has submitted additional evidence in support of the motion to reopen, the Applicant has not established eligibility. On motion to reconsider, the Applicant has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.