



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

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

In Re: 23589859

Date: NOV. 14, 2022

Motion on Administrative Appeals Office Decision

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

The Applicant's departure from the United States executed a deportation order against him, and he conceded that he later re-entered the country without admission, rendering him inadmissible under Immigration and Nationality Act (the Act) section 212(a)(9)(C)(i)(II), 8 U.S.C. § 1182(a)(9)(C)(i)(II). To qualify for an exception to the inadmissibility ground, he seeks permission to reapply for admission. Section 212(a)(9)(C)(ii) of the Act.

The Director of the San Antonio, Texas Field Office denied the application, and we dismissed the Applicant's appeal. *See In Re: 20388501* (AAO May 31, 2022). We affirmed the Director's inadmissibility finding. *Id.* Also, because the Applicant did not remain outside the United States for at least 10 years before filing the application, we agreed that he does not qualify for the requested inadmissibility exception. *Id.*

The matter returns to us on the Applicant's combined motions to reopen and reconsider. He bears the burden of establishing his U.S. admissibility or his eligibility for the requested inadmissibility exception. *See Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon review, we find that the motions demonstrate neither the Applicant's admissibility nor eligibility for the exception. We will therefore dismiss the filings.

#### I. MOTION CRITERIA

A motion to reopen must state "new facts," supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). In contrast, a motion to reconsider must demonstrate that our most recent decision misapplied law or U.S. Citizenship and Immigration Services policy based on the evidence at the time of the decision's issuance. 8 C.F.R. § 103.5(a)(3).

We may grant motions that meet these requirements and demonstrate eligibility for the requested exception. Conversely, we must dismiss motions that do not meet applicable requirements. 8 C.F.R. § 103.5(a)(4).

## II. THE MOTION TO REOPEN

The Applicant's documentary evidence includes:

- a copy of an immigrant visa approval notice for him as the spouse of a U.S. citizen;
- a copy of an email message from the National Visa Center of the U.S. Department of State regarding processing of his immigrant visa application; and
- a letter from a Florida resident asserting the Applicant's possession of good moral character.

Two of the Applicant's documents do not meet applicable motion requirements. Our appellate decision identified the Applicant - a 51-year-old native and citizen of Honduras and father of a 10-year-old U.S. citizen son - as the beneficiary of the approved immigrant visa petition and indicated his intent, based on the approved petition, to apply abroad for an immigrant visa. Thus, contrary to 8 C.F.R. § 103.5(a)(2), the copies of the petition's approval notice and the email message from the visa center do not state "new facts."

The remaining document - the character letter - does not demonstrate the Applicant's U.S. admissibility or qualifications for the requested inadmissibility exception. While the letter is "new," it does not address the nature of the Applicant's U.S. re-entry or the amount of time he spent abroad. As the letter does not demonstrate the Applicant's U.S. admissibility or eligibility for the exception, we will dismiss the motion to reopen.

## III. THE MOTION TO RECONSIDER

The Applicant asks us to "reconsider based on the merits, as well as the humanitarian grounds." But the filing does not assert any specific errors in our decision. Thus, contrary to 8 C.F.R. § 103.5(a)(3), the submission does not demonstrate that - in finding him inadmissible under section 212(a)(9)(C)(i)(II) of the Act or ineligible for the requested exception under section 212(a)(9)(C)(ii) of the Act - we misapplied law or policy. We must therefore also dismiss the motion to reconsider. *See* 8 C.F.R. § 103.5(a)(4).

## IV. CONCLUSION

The Applicant's documentary evidence does not demonstrate his U.S. admissibility or his eligibility for the requested inadmissibility exception. He also did not establish that our prior decision misapplied law or policy. We will therefore dismiss the Applicant's motions.

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

**FURTHER ORDER:** The motion to reconsider is dismissed.