



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

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

In Re: 23311574

Date: DEC. 6, 2022

Motion on Administrative Appeals Office Decision

Form I-485, Application to Adjust Status

The Applicant seeks to adjust his status to that of a lawful permanent resident under section 245 of the Immigration and Nationality Act (the Act), 8 U.S.C. §1255. A noncitizen seeking to adjust status in the United States must be “admissible” or receive a waiver of inadmissibility.

The Director of the Texas Service Center denied the adjustment of status request, concluding that the Applicant was inadmissible to the United States under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. §1182(a)(6)(C)(i), for fraud or willful misrepresentation, and did not establish eligibility for a waiver of this inadmissibility ground. We affirmed the inadmissibility finding on certification and dismissed the Applicant’s seven subsequent motions to reopen and reconsider explaining, in part that he did not have a qualifying relative to seek a waiver of inadmissibility.

On his eighth motion to reconsider, the Applicant submits birth certificates of his U.S.-born children, asserts that he is a law-abiding noncitizen and taxpayer with no criminal history, and requests adjustment of status as a matter of discretion so he and his family can remain in the United States.

Upon review, we will dismiss this eighth motion to reconsider.

A motion to reconsider must show that our decision was based on an incorrect application of law or policy to the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(2)-(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

In our previous decision, which we incorporate here by reference we acknowledged the Applicant’s statements that the misrepresentation concerning his previous status violation on a visa application was nonintentional. We explained, however, citing *Parlak v. Holder*, 578 F.3d 457 (6th Cir. 2009) that a willful misrepresentation within the meaning of section 212(a)(6)(C)(i) of the Act does not require an intent to deceive, but only the knowledge that the representation is false. The Applicant does not point to any legal or policy errors in our previous decision dismissing his motion, nor does he claim that it was incorrect based on the evidence in the record at the time we issued that decision. Instead, he asserts that unlike the individual in *Parlak* he has no criminal history, and reiterates that his misrepresentation was not intentional. The Applicant’s renewed assertion, which we addressed in

our certification and motion decisions does not establish a sufficient basis for reconsideration of our previous determination that he is inadmissible under section 212(a)(6)(C)(i) of the Act. While we recognize that the Applicant has two U.S. citizen children, he does not qualify to seek a waiver of inadmissibility under section 212(i) of the Act, which is available only to noncitizen spouses or children of U.S. citizens or lawful permanent residents. We acknowledge the Applicant's claim that he pays taxes and has no criminal history. However, neither the Act nor the regulations authorize a grant of adjustment of status under section 245 of the Act as a matter of discretion to a noncitizen who is statutorily ineligible for such adjustment.

In conclusion, the Applicant has not overcome our previous determination that he is inadmissible to the United States under section 212(a)(6)(C)(i) of the Act and ineligible to seek a waiver of this inadmissibility ground. Consequently, the Applicant has not established a basis for reconsideration and his request for adjustment of status to that of a lawful permanent resident under section 245 of the Act remains denied.

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