



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

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

In Re: 21902296

Date: AUG. 31, 2022

Appeal of Nebraska Service Center Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of Nigeria, seeks a waiver of inadmissibility under section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i), for fraud or misrepresentation. The Director of the Nebraska Service Center denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the record did not establish that the Applicant has a qualifying relative. The matter is now before us on appeal. On appeal, the Applicant submits evidence and a brief asserting his eligibility. The Administrative Appeals Office reviews the questions in this matter *de novo*. *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. LAW

Any foreign national who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under the Act, is inadmissible. Section 212(a)(6)(C)(i) of the Act. There is a waiver of this inadmissibility if refusal of admission would result in extreme hardship to the U.S. citizen or lawful permanent resident spouse or parent of the foreign national. If the foreign national demonstrates the existence of the required hardship, then they must also show that U.S. Citizenship and Immigration Services should favorably exercise its discretion and grant the waiver. Section 212(i) of the Act.

The burden of proof is on an applicant to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

A U.S. Department of State (DOS) consular officer found the Applicant inadmissible under section 212(a)(6)(C)(i) of the Act for fraud or misrepresentation. Specifically, the consular officer determined that the Applicant used a different name and date of birth in a 2007 nonimmigrant visa application. Therefore, the Applicant was found to have misrepresented a material fact, his identity, in seeking to procure a nonimmigrant visa.

The Applicant filed the instant waiver application. He asserted that his U.S. citizen brother was a qualifying relative, and his brother would experience extreme hardship if he was refused admission to the United States. However, the Director correctly determined that the Applicant was ineligible for a section 212(i) waiver as he did not have a qualifying relative, which only includes a U.S. citizen or lawful permanent resident spouse or parent.

On appeal, the Applicant states that he found the agent who prepared his 2007 nonimmigrant visa application. The Applicant claims that details from the agent's computer records show that the agent inadvertently listed the name and date of birth of one his other clients as the Applicant's. Therefore, the Applicant asserts that he did not willfully misrepresent himself in his 2007 nonimmigrant visa application, rather his agent made an error. The Applicant further asserts that he has never willfully made a material misrepresentation before a U.S. consulate. In this case, the Applicant is residing abroad and applying for an immigrant visa, therefore DOS makes the final determination concerning his eligibility for the visa and any grounds of inadmissibility that may apply. Here, DOS determined that the Applicant is inadmissible under section 212(a)(6)(C)(i) of the Act for fraud or misrepresentation. Thus, we will consider only if the Applicant qualifies for a waiver of this ground of inadmissibility.

A waiver under section 212(i) of the Act is available to individuals who can establish that refusal of their admission would result in extreme hardship to a qualifying relative, which only includes a U.S. citizen or lawful permanent resident spouse or parent. As the Applicant does not have a qualifying relative, he is not eligible for a waiver under section 212(i) of the Act. The application will remain denied.

ORDER: The appeal is dismissed.