



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

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

In Re: 21675542

Date: JUL. 21, 2022

Appeal of Washington, DC Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of Ghana, 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 Washington, DC Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the record did not establish that the Applicant's only qualifying relative, his U.S. citizen spouse, would experience extreme hardship because of his continued inadmissibility. 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 remand the matter to the Director for the entry of a new decision.

## 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

The Applicant was admitted to the United States on September 13, 2000, by presenting a passport and F-1 student nonimmigrant visa in another name. Therefore, the Director correctly found him

inadmissible under section 212(a)(6)(C)(i) of the Act due to fraud or misrepresentation.<sup>1</sup> The Applicant does not contest the Director's inadmissibility finding on appeal.

The Applicant seeks a waiver of this inadmissibility under section 212(i) of the Act and asserts that he established extreme hardship to his spouse. An applicant may show extreme hardship in two scenarios: 1) if the qualifying relative remains in the United States separated from the applicant and 2) if the qualifying relative relocates overseas with the applicant. Demonstrating extreme hardship under both of these scenarios is not required if the applicant's evidence demonstrates that one of these scenarios would result from the denial of the waiver. The applicant may meet this burden by submitting a statement from the qualifying relative certifying under penalty of perjury that the qualifying relative would relocate with the applicant, or would remain in the United States, if the applicant is denied admission. *See 9 USCIS Policy Manual B 4(B)*, <https://www.uscis.gov/policymanual> (providing guidance on establishing hardship in the event of relocation or separation). In the present case, the record includes a statement from the Applicant's spouse indicating that she will remain in the United States and not relocate to Ghana if the Applicant's waiver application is denied. The Applicant must therefore establish that if he is denied admission, his spouse would experience extreme hardship if she remains in the United States.

In relation to hardship the Applicant's spouse would experience remaining in the United States, the Director addressed her psychosocial report, medical records from 2013 to 2017, and financial records. The Director determined that she would not experience extreme hardship while noting there is no indication that she received medical treatment from 2017 through 2019, when the waiver application was filed, and she failed to submit evidence of ongoing treatment other than the psychosocial report. On appeal, the Applicant submits material evidence, including an updated psychosocial report and psychiatric evaluation notes from September 2021.

Considering the Applicant's brief and new evidence submitted on appeal relating to extreme hardship to his spouse if she remains in the United States, we find it appropriate to remand the matter for the Director to determine in the first instance if the Applicant has established if his spouse would experience extreme hardship. If the Director finds that the Applicant has established extreme hardship to his U.S. citizen spouse, then the Director must consider whether he merits a favorable exercise of discretion.

**ORDER:** The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

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<sup>1</sup> The Director also found the Applicant inadmissible for fraud or misrepresentation due to misrepresenting himself as married on a January 2013 Form I-485, Application to Register Permanent Residence or Adjust Status, even though he was divorced at the time of filing. The Applicant does not contest this finding on appeal.