



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

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

In Re: 23036342

Date: NOV. 16, 2022

Appeal of Chicago, Illinois Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of Ukraine, has applied to adjust status to that of a lawful permanent resident (LPR) and 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 Chicago, Illinois Field Office denied the waiver application, concluding that the Applicant failed to establish extreme hardship to his qualifying relative.

On appeal, the Applicant submits a brief and evidence and contends that the Director did not review all information and statements provided by the Applicant with his waiver application. 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). In these proceedings, it is the applicant's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), renders inadmissible any noncitizen who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, admission into the United States, or other benefit provided under the Act. Section 212(i) of the Act provides for a waiver of this inadmissibility if refusal of admission would result in extreme hardship to the U.S. citizen or LPR spouse or parent of the noncitizen.

II. ANALYSIS

The Applicant was found inadmissible for fraud or misrepresentation under section 212(a)(6)(C)(i) of the Act for entering the United States in 2004 using a photo-substituted fraudulent passport and a nonimmigrant visitor visa under the identity of another individual. The Applicant does not contest this determination on appeal, and it is supported by the record. The issues on appeal are whether the Applicant has a qualifying relative or qualifying relatives, whether the Applicant has demonstrated that his qualifying relative(s) will suffer extreme hardship if the inadmissibility is not waived, and if so, whether he merits a waiver as a matter of discretion.

Upon review of the record on its totality, we conclude that the Applicant does not have a qualifying relative to request a waiver under section 212(i) of the Act; therefore, we will not consider the Applicant's extreme hardship claims or whether he merits a waiver as a matter of discretion.

For a waiver of inadmissibility under section 212(i) of the Act, a qualifying relative is the U.S. citizen or LPR spouse or parent. The Applicant has filed for a waiver of the inadmissibility based on his relationships with his U.S. citizen child and grandchildren. The Applicant's children or grandchildren are not qualifying relatives under section 212(i) of the Act. The Director erred in finding that the Applicant has met the threshold requirement of a qualifying relationship under section 212(i) of the Act because he has a daughter who is a U.S. citizen. While we consider any hardship that the qualifying relative(s) may experience as a result of hardships to other non-qualifying relatives, the Applicant's daughter is not a qualifying relative. Further, the record does not reflect that the Applicant has a qualifying relative as he is divorced and has no spouse, and both of his parents are deceased.

On appeal, the Applicant asserts that we must take into consideration the Russian invasion of Ukraine in 2022 and reevaluate the Director's decision based upon the current situation in Ukraine. While we are sympathetic to the family's circumstances, we cannot disregard the statutory eligibility requirement under section 212(i) of the Act based on the current crisis in Ukraine. However, as noted by the Applicant's attorney in his brief, in March 2022, the Secretary of the Department of Homeland Security announced a new designation for Ukraine for Temporary Protected Status (TPS) for 18 months from April 19, 2022 through October 19, 2023. The Applicant may seek for TPS or other available immigration benefits available to Ukrainians.

As noted above, the Applicant must establish that he has a qualifying relative or qualifying relatives and that denial of the waiver application would result in extreme hardship to his qualifying relative(s). As the Applicant has not established that he has a qualifying relative, we cannot conclude that he has met this statutory requirement. Therefore, the waiver application will remain denied.

III. CONCLUSION

The Applicant has not established his statutory eligibility for the requested waiver under section 212(i) of the Act. Accordingly, the waiver application will remain denied.

ORDER: The appeal is dismissed.