



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

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

In Re: 22737494

Date: SEPT. 20, 2022

Appeal of Des Moines Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant 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 committing an act of fraud. U.S. Citizenship and Immigration Services (USCIS) may grant a discretionary waiver under this provision if refusal of admission would result in extreme hardship to a qualifying relative or qualifying relatives. The Des Moines Field Office Director denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), to waive their inadmissibility. The Director concluded the Applicant did not establish extreme hardship to their U.S. citizen spouse or mother who is an LPR.

On appeal, the Applicant submits a brief and additional evidence, asserting their eligibility. The Applicant bears the burden of demonstrating eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review 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 conclude that a remand is warranted in this case.

I. LAW

A 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, 8 U.S.C. § 1182(a)(6)(C)(i). There is a discretionary waiver of this inadmissibility ground 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. Section 212(i) of the Act. If the foreign national demonstrates the existence of the required hardship, then they must also show they merit a favorable exercise of discretion. *Id.*

A determination of whether denial of admission will result in extreme hardship depends on the facts and circumstances of each case. *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565 (BIA 1999) (citations omitted). We recognize that some degree of hardship to qualifying relatives is present in most cases; however, to be considered “extreme,” the hardship must exceed that which is usual or

expected. *See Matter of Pilch*, 21 I&N Dec. 627, 630–31 (BIA 1996) (finding that factors such as economic detriment, severing family and community ties, loss of current employment, and cultural readjustment were the “common result of deportation” and did not alone constitute extreme hardship). In determining whether extreme hardship exists, individual hardship factors that may not rise to the level of extreme must also be considered in the aggregate. *Matter of Ige*, 20 I&N Dec. 880, 882 (BIA 1994) (citations omitted).

II. ANALYSIS

A. Background

The Applicant’s mother immigrated to the United States in 2013 and became an LPR in that same year. On the Applicant’s nonimmigrant visa application she filed in 2014, she failed to disclose that her mother was in the United States. And even though she acknowledged that she had some family members who immigrated to this country, she specifically denied that her mother was among those family members.

At the Applicant’s adjustment of status interview before the Director, she informed the interviewing officer that when she arrived in the United States, she traveled directly to her mother’s residence where she lived with her mother and sister for more than four years. The Director’s decision notes this information contradicted her claims on the nonimmigrant visa where she indicated that she intended to travel to [redacted] Texas where she would remain in the United States for approximately one month. To address the Applicant’s fraudulent act, she filed the waiver application and the Director denied that filing together with the Form I-485.¹

The waiver application is now before us on appeal. The Applicant claims that if her qualifying relatives remain in the United States, her mother will not be able to access proper medical care and she would experience adverse psychological effects, while her spouse would undergo physical ailments relating to stress as well as psychological issues. On appeal, the Applicant submits psychological assessments for both her mother and her spouse.

B. Extreme Hardship

Regarding her mother, in the proceedings before the Director the Applicant claimed she experiences a physical malady in the form of rheumatoid arthritis (RA) and the Applicant arranges her medical appointments, manages her prescriptions, and explains her mother’s medication instructions to her. She further indicated that she provides financial assistance to her mother when she is unable to work due to her medical condition. If her mother were to relocate to the Applicant’s home country, she would not have adequate access to medical services for her RA.

The Director noted that since getting married, the Applicant has moved to another state, that her mother is employed, and her mother lives with the Applicant’s sister. The Director indicated this suggests the

¹ The Director’s decision also briefly mentions the Applicant may have been an intending immigrant. However, as the Director did not further develop the record on that issue, we express no opinion on that matter nor on the outcome of this case.

Applicant's mother can live relatively independently or with minimal assistance from the Applicant. The Director also noted the Applicant's mother has been able to maintain employment despite her medical condition and that the Applicant would not be her mother's only means of financial support. When evaluating the Applicant's claims were her mother to relocate to the Democratic Republic of the Congo, the Director noted she would be returning to her country of birth and would no longer experience a language barrier with others, and the Applicant could serve as her caretaker. Based on these factors, the Director concluded the Applicant did not establish her LPR mother would experience extreme hardship if the Applicant was denied admission to the United States.

Now on appeal, the Applicant notes that she continues to schedule her mother's medical appointments and she attempts to take her mother to those appointments despite living approximately four hours away. She also describes the psychological issues her mother has experienced resulting from the possibility that her daughter's green card application could be denied meaning they would be separated and living in different countries. The Applicant supports these claims with a new psychological evaluation for her mother. The Applicant did not present these claims or evidence to the Director. The Applicant also provides new psychological claims and evidence relating to her spouse on appeal.

Because the record does not indicate that the Director reviewed these additional claims and supporting evidence before forwarding the appeal to our office, we will return the matter to the Director to consider them as it relates to extreme hardship for each qualifying relative.

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