



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

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

In Re: 28375208

Date: OCT. 30, 2023

Appeal of Wichita, Kansas Field Office Decision

Form I-601, Application for Waiver of Grounds of Inadmissibility

The Applicant, a native and citizen of China currently residing in the United States, has applied to adjust status to that of a lawful permanent resident (LPR). A noncitizen seeking to be admitted to the United States as an immigrant or to adjust status must be “admissible” or receive a waiver of inadmissibility. The Applicant has been found inadmissible for a vaccine-preventable disease and seeks a waiver of that inadmissibility. *See* Immigration and Nationality Act (the Act) section [212(g), 8 U.S.C. § 1182(g)]. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver if they receive the requisite vaccine; a civil surgeon, medical officer or panel physician certifies that the vaccine is not medically appropriate; there is nationwide vaccination shortage; or if receiving the vaccine is contrary to the foreign national’s religious beliefs or moral convictions.

The Director of the Wichita, Kansas Field Office denied the application, concluding that the record did not establish that the Applicant had a firmly held religious or moral objection to vaccination in all forms. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Applicant asserts that the civil surgeon did not properly complete the required documentation and submits new documentation to establish her vaccination history and firmly held religious convictions.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (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 will withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

Section 212(a)(1)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(1)(A)(ii), makes inadmissible any foreign national who seeks admission as an immigrant or who seeks adjustment of status to lawful permanent resident and who has failed to present documentation of having received vaccination against vaccine preventable diseases. On August 17, 2021, the Centers for Disease Control and Prevention (CDC) released an update to the Vaccination Technical Instructions for Civil Surgeons, requiring applicants subject to the immigration medical examination to complete the COVID-19 vaccine series (currently one or two doses, depending on formulation) and provide documentation of vaccination to the civil surgeon before completion of the immigration medical examination. USCIS began requiring the COVID-19 vaccine series for all applicants subject to the immigration medical examination who

submit a Form I-693, Report of Medical Examination and Vaccination Record (medical examination report), signed by a civil surgeon on or after October 1, 2021.

Section 212(g)(2) of the Act, 8 U.S.C. § 1182(g)(2), provides for a waiver of this inadmissibility under such circumstances as the [Secretary of Homeland Security] provides by regulation, with respect to whom the requirement of such a vaccination would be contrary to the applicant's religious beliefs or moral convictions.

The Applicant submitted a medical examination report from a civil surgeon in connection with her application for adjustment of status. The civil surgeon indicated on the form that the Applicant requests a waiver of the vaccination requirement but did not complete the vaccination record for those vaccines the Applicant has already received during her lifetime. The Applicant further indicated that she sought a waiver of the vaccination requirement because her Christian and Taoist beliefs do not allow for vaccinations in any form. The Director determined that the Applicant's medical examination report was not properly completed and sent a request for evidence (RFE) seeking her historical vaccination record. The Applicant returned to the civil surgeon and requested a new medical examination record with the requested information. The Director determined that the second medical examination record was also improperly completed and undermined the Applicant's credibility relating to her religious convictions. Further, the Director determined that since the Applicant had received vaccinations after becoming a Christian her claim of religious objection lacked credibility.

On appeal, the Applicant provides a new Form I-693 completed by a different civil surgeon and argues that the incomplete paperwork is not an indication that her religious and moral convictions were not deeply held. Upon de novo review, while the Director stated that the Applicant received vaccinations after becoming a Christian, they did not address the Applicant's claims regarding how her thinking about vaccines changed as a result of a renewed focus on Taoism and its tenets.

Credibility findings must be based on the totality of the circumstances and all relevant factors, including: the demeanor, candor, or responsiveness of the applicant or witness, the inherent plausibility of the applicant's or witness's account, the consistency between the applicant's or witness's written and oral statements (whenever made and whether or not under oath, and considering the circumstances under which the statements were made), the internal consistency of each such statement, the consistency of such statements with other evidence of record (including the reports of the Department of State on country conditions), and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim, or any other relevant factor. *Matter of O-M-O-*, 28 I&N Dec. 191, 193 (BIA 2021).

The Applicant provided a detailed account of her beliefs and how they changed over time to inform her current stance on vaccinations as a whole. The Director did not identify a clear inconsistency between the Applicant's current moral convictions and her receipt of vaccinations in 2016. The Applicant submits a new personal statement on appeal regarding the process for completing the Form I-693 and a new medical examination report along with a copy of her prior vaccination record from China.

The Director has not reviewed the new evidence, which may have an impact on the Applicant's eligibility for a waiver under section 212(g) of the Act. As such, we find it appropriate to remand the matter for the Director to consider the new evidence to determine if the Applicant has established that she is opposed to vaccinations in any form based on sincere religious beliefs or moral convictions.

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