



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

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

In Re: 26842395

Date: August 15, 2023

Appeal of Raleigh-Durham, North Carolina Field Office Decision

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

The Director of the Raleigh-Durham, North Carolina Field Office denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601), to waive the Applicant's inadmissibility, concluding that she had not established extreme hardship to her U.S. citizen husband or to her lawful permanent resident mother, as required to demonstrate eligibility for a discretionary waiver under section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i). On appeal, the Applicant asserts her eligibility for the waiver.

The Applicant bears the 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). We review the questions in this matter de novo. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). The matter is now before us on appeal. 8 C.F.R. § 103.3. Upon de novo review, we will dismiss the appeal.

I. LAW

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, 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 if refusal of admission would result in extreme hardship to the United States citizen or lawful permanent resident spouse or parent of the noncitizen. Section 212(i) of the Act. If the noncitizen 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).

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. See generally 9 USCIS Policy Manual B.4(B), <https://www.uscis.gov/legal-resources/policy-memoranda>. Demonstrating extreme hardship under both scenarios is not required if the applicant's evidence demonstrates that one of these scenarios would result from the denial of the waiver. See *id.* The applicant may meet this burden by submitting a statement from the qualifying relatives certifying under penalty of perjury that the qualifying relatives would relocate with the applicant, or would remain in the United States, if the applicant is denied admission. See *id.* In the present case, the Applicant's mother says she "could never go back to Liberia." Section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i). The Applicant's husband expressed an intent to remain in the United States, too, saying "I can swear I will suffer extreme hardship if [the Applicant] is not allowed to stay here with me." The Applicant must, therefore, establish that if she is denied admission, her mother or spouse would experience extreme hardship upon separation.

II. ANALYSIS

The record establishes that the Applicant is a citizen of Liberia. The Director determined the Applicant was inadmissible under section 212(a)(6)(C)(i) of the Act for fraud or willful misrepresentation of a material fact, and the Applicant, who is seeking adjustment of status, therefore filed this Form I-601 to waive her inadmissibility. In denying the Form I-601, the Director determined that the Applicant was not eligible for a waiver under section 212(i) of the Act because she had not established extreme hardship to her U.S. citizen spouse or lawful permanent resident mother.

The Director found three misrepresentations: (1) the Applicant claimed to have a husband in Liberia notwithstanding her divorce having been final; (2) she claimed her ex-husband's child was her daughter in Liberia; and, (3) she misrepresented having no relatives in the United States when two siblings resided in the United States when she entered the country. The Applicant argued to the Director that she did not make deliberate misrepresentations and that, if she did, they were not material. On appeal, the Applicant "stand[s] on the established record" to explain the alleged misrepresentation, pointing out no new legal or factual error in the Director's decision and introducing no new evidence.

Regarding hardship, the Applicant's husband, who she married in 2022, submitted a statement saying the thought of the Applicant returning to Liberia would be "horrifying" and that he loves the Applicant, and he relies on her as a housewife, cooking and cleaning for him and two stepchildren, aged twenty and thirteen. The Applicant's spouse owns a tax preparation business, works as an accountant full time, and is raising two children. The Applicant's mother, age 70, does not work and her statement claims the Applicant gives her "several hundred dollars per month."¹ The Applicant's mother expresses concern that in the coming years her "health will start to fail as [she] get[s] older."

The Applicant submits a brief from counsel contending that she established eligibility for the waiver based on extreme hardship to her spouse and mother and that the Director failed to consider all the

¹ The Director's decision notes that the record does not contain evidence to support this asserted financial contribution.

hardship to her qualifying relatives. Counsel's brief asserts that the Director's decision "focuses heavily on the alleged misrepresentation, even though the whole point of the waiver is to focus on the hardships to the qualifying relatives." Counsel asserts we "should balance the purposes of the Liberian Refugee Immigration Fairness [LRIF] into the equation" in assessing whether there is sufficient hardship for the waiver. Counsel restates the facts in the record and asks that we consider the presented hardship considering the humanitarian concerns of LRIF and with family unity in mind. Counsel disagrees with the Director's weighing of the hardship in the established record and the tone of the decision.

Upon consideration of the entire record, including the arguments made on appeal, we affirm the Director's ultimate determination with the comments below. We acknowledge the assertions around the tone in the Director's decision and weighing of the hardship factors but, nonetheless, the record does not support a determination of extreme hardship. The mere existence of LRIF legislation does not establish extreme hardship. To qualify for adjustment of status based on LRIF, a Liberian principal applicant must establish that he or she is admissible. If an applicant is inadmissible based on an applicable ground of inadmissibility, he or she must apply for a waiver or other form of relief, if eligible, to overcome that inadmissibility. The Applicant still must qualify for the waiver by meeting her burden to establish extreme hardship to a qualifying relative. See generally 5 USCIS Policy Manual C.3, <https://www.uscis.gov/policy-manual/volume-7-part-p-chapter-5>. Establishing extreme hardship is a nondiscretionary requirement of the waiver that is the Applicant's burden.

The record, reviewed in its entirety and considering the hardship factors discussed in *Matter of Pilch*, 21 I&N Dec. at 630-31, does not support a finding that the Applicant's spouse and mother will face extreme hardship if the Applicant lives in Liberia. The record does not establish that the Applicant's spouse and mother will face greater hardships than the unfortunate, but expected, disruptions, inconveniences, and difficulties arising whenever a spouse or child is denied entry into the United States. The hardships the Applicant enumerates do not rise to the level of "extreme" as contemplated by statute and case law.

Although we are sympathetic to the Applicant and her spouse and mother's circumstances, we conclude that if the Applicant's spouse and mother remain in the United States without the Applicant, the record is insufficient to show that the hardship to them would rise beyond the common results of removal or inadmissibility to the level of extreme hardship. Considering all of the evidence in its totality, the record is insufficient to show that the Applicant's spouse's and mother's claimed financial, mental, and psychological hardships would be unique or atypical, rising to the level of extreme hardship, if they remain in the United States while the Applicant returns to live abroad due to her inadmissibility.

In proceedings for an application for a waiver of grounds of inadmissibility under section 212(a)(6)(C)(i), the burden of establishing that the application merits approval remains entirely with the Applicant. Section 291 of the Act, 8 U.S.C. § 1361. The Applicant has not sustained that burden. Accordingly, the waiver application remains denied.

ORDER: The appeal is dismissed.