



U.S. Citizenship  
and Immigration  
Services

Non-Precedent Decision of the  
Administrative Appeals Office

In Re: 28767619

Date: DEC. 19, 2023

Appeal of San Diego, California Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Director of the San Diego, California Field Office denied the Applicant's Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601), concluding that she had not established extreme hardship to her U.S. citizen father 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, claiming that her U.S. citizen father and her lawful permanent resident mother, in the aggregate, would suffer extreme hardship if the waiver is denied. She states that her mother's hardship was not presented to the Director because her waiver application was not properly documented by an immigration consultant. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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.

#### 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 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 *id.* In the present case, the record is clear that the Applicant's father and mother would remain in the United States if the Applicant's waiver application is denied. The Applicant must, therefore, establish that if she is denied admission, her parents would experience extreme hardship upon separation.

#### ANALYSIS

The Director determined the Applicant, a citizen of Mexico, 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 father with the presented evidence. The Applicant presented her father's personal statement and medical assessment diagnosing her father with arterial hypertension, diabetes, and depression, as well as declarations of support from a great aunt and a sister. The Applicant's father's statement asserted emotional and psychological hardship if the Applicant's waiver is denied. He was diagnosed with depression in 2021 after the death of one of the Applicant's sisters and is actively being treated for depression.

In denying the waiver, the Director noted that the father's medical assessment was done in  Mexico and "does not make any mention that the Applicant's father needs a caregiver or is assisted by anyone for any of his medical conditions." The Director noted that the Applicant does not support her father financially, that his depression, due to the death of a sister of the Applicant from cancer, is actively being treated with medication, and that the father's medical treatment is conducted in Mexico where the Applicant may be residing. The Director found that, in the aggregate, the hardship did not exceed that which is usual or expected.

On appeal, the Applicant does not contest the inadmissibility finding. The Applicant submits a brief and states that the waiver application was submitted by an immigration consultant who did a poor job by not even presenting the hardship of a second qualifying relative, the Applicant's lawful permanent resident mother. The Applicant presents new evidence on appeal including:

- An updated personal statement of the Applicant’s father describing knee problems, difficulty walking and standing, past knee surgery, and permanent injury to his second knee in 2020 at work. The Applicant’s father still works at the same company, but in a sedentary job. The statement says that the Applicant “has always cared for [him] and his wife.” He states that the Applicant “lives next to our residence,” and helps him and his wife “do chores we no longer are able to do” like “moving furniture to clean their home, carrying heavy loads of clothes or other heavy things, and running errands.” He says that the Applicant is the person who usually administers twice-daily insulin shots to him and his wife.
- An updated psychological report of the father diagnosing him with generalized anxiety disorder and major depressive disorder, recurrent, severe, without psychotic features.
- An updated medical assessment of the Applicant’s father stating that pain in his knees limits his activities and diagnosing him with hypertension. The doctor ordered x-rays of both knees and assessment by traumatology.
- A declaration from the Applicant’s lawful permanent resident mother, a qualifying relative for the waiver application whose hardship was not previously described to the Director. This declaration states that the Applicant’s father and mother have come to depend on the Applicant to conduct their lives. The Applicant’s mother states that she had to stop working as a housekeeper due to arthritis in the hands and that lately she has arthritis in one of her legs. She states that the Applicant helps her do things she no longer can do such as folding clothes, carrying heavy things, and performing chores such as sweeping, mopping, and cutting and chopping food. The Applicant’s mother states that she depends on the Applicant emotionally and physically.
- A psychological report of the Applicant’s mother diagnosing her with generalized anxiety disorder, panic disorder, major depressive disorder, recurrent, severe, without psychotic features, and other specified trauma- and stressor-related disorder.
- A medical assessment of the Applicant’s mother diagnosing arthritis of the knee, insulin dependent diabetes, hyperlipidemia, and hypertension.
- Medical literature describing the various diagnoses of the Applicant’s parents.
- Bills of the Applicant’s parents; and
- Thirteen letters of support from five sisters, the Applicant’s two daughters, a second cousin, a sister-in-law, and four family friends.

Upon de novo review, we note that the Director has not been afforded the opportunity to consider: (1) hardship on an additional qualifying relative, the Applicant’s mother; and (2) new evidence presented on appeal in connection with the Applicant’s father. Based on the foregoing, we will remand the matter to the Director to consider the aggregate hardship of the two qualifying relatives, including hardship presented on appeal in the new evidence.

Should the Director find that the Applicant has established extreme hardship, in the aggregate, to her parents, the Director shall evaluate whether the Applicant warrants a favorable exercise of discretion, taking into consideration such extreme hardship to the Applicant’s parents and other discretionary factors. See 9 USCIS Policy Manual 5.A, <https://www.uscis.gov/policymanual> (providing a non-exhaustive list of factors that may be relevant to the discretionary analysis).

ORDER: The decision of the Director of the Nebraska Service Center is withdrawn. The matter is remanded to the Director for further proceedings consistent with the foregoing opinion and for the entry of a new decision.