



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

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

In Re: 28723507

Date: NOV. 16, 2023

Appeal of Kansas City, Missouri Field Office Decision

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

The Applicant seeks a waiver of inadmissibility under section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i).<sup>1</sup>

The Director of the Kansas City, Missouri Field Office determined that the Applicant had not established that he has a qualifying relative for purposes of a waiver of inadmissibility under section 212(i) of the Act. The Director also noted that the Form I-130, Petition for Alien Relative, filed on the Applicant's behalf had been denied because "USCIS [U.S. Citizenship and Immigration Services] found that [the Applicant's] relationship was not bona fide, and was entered into for immigration purposes." Accordingly, the Director denied the waiver application as a matter of law. On appeal, the Applicant submits additional documentation and maintains that he has established eligibility for the benefit sought.

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 dismiss the appeal.

As noted by the Director, the Form I-130, Petition for Alien Relative, filed on the Applicant's behalf, was denied in May 2021.<sup>2</sup> Without an approved Form I-130, the Applicant lacks a basis for adjusting his status to that of a lawful permanent resident, or for being admitted into the country pursuant to an

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<sup>1</sup> A 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. 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.

<sup>2</sup> Moreover, the record establishes that the Applicant's Form I-485, Application to Register Permanent Residence or Adjust Status, was denied in May 2021 because the Form I-130 filed on his behalf had been denied and no evidence had been provided to establish that the Applicant was "entitled to an immigrant visa on any other basis."

immigrant visa. *See* section 245(a) of the Act, 8 U.S.C. § 1255(a); *see also* 8 C.F.R. §§ 212.2(b)-(j). In the absence of an approved immigrant petition no purpose is served in adjudicating the waiver application at this time. The waiver application is properly denied.

**ORDER:**      The appeal is dismissed.