



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

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

In Re: 28129438

Date: OCT. 10, 2023

Appeal of Los Angeles, California Field Office Decision

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

The Applicant, a native and citizen of Mexico 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 fraud or misrepresentation and seeks a waiver of that inadmissibility. *See* Immigration and Nationality Act (the Act) section 212(i), 8 U.S.C. § 1182(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver if refusal of admission would result in extreme hardship to a qualifying relative or qualifying relatives.

The Director of the Los Angeles, California Field Office denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (waiver application), concluding that the record did not establish the Applicant’s U.S. citizen mother, a qualifying relative, would experience extreme hardship because of his continued inadmissibility, and that he did not merit a favorable exercise of discretion as his unfavorable factors outweighed his favorable factors. 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 dismiss the appeal.

I. LAW

Any 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. There is a 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 foreign national. If the foreign national demonstrates the existence of the required hardship, then he or she must also show that USCIS should favorably exercise its discretion and grant the waiver. Section 212(i) of the Act.

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

The Director found the Applicant inadmissible under section 212(a)(6)(C)(i) of the Act for fraud or misrepresentation. Specifically, the Applicant orally misrepresented himself as a U.S. citizen while seeking entry to the United States on or around August 13, 1994. The Applicant does not contest he is inadmissible on appeal. The issues on appeal are whether the Applicant has established extreme hardship to his U.S. citizen mother and whether he merits a waiver as a matter of discretion.¹ The record does not establish that the Applicant’s mother would experience extreme hardship due to his continued inadmissibility. As such, no purpose would be served in determining whether the Applicant merits a waiver as a matter of discretion. Our decision is based on a review of the record, which includes, but is not limited to, statements from the Applicant and family members, medical records, photographs, and financial records.

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. 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. 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. 9 *USCIS Policy Manual* B 4(B), <https://www.uscis.gov/policymanual>. In the present case, the record does not contain a statement from the Applicant’s mother clearly indicating the intention to either remain in the United States or relocate to Mexico if the Applicant’s waiver application is denied. The Applicant must therefore establish that if he is denied admission, his mother would experience extreme hardship both upon separation and relocation.

On appeal, the Applicant asserts that the Director did not consider the totality of the circumstances in making the decision. The Applicant states the Director made a cursory and inaccurate list of the evidence and made a one sentence conclusion without reference to the list of facts. Next, the Applicant claims the cases cited by the Director did not address the issues of serious health problems suffered

¹ The record reflects that the Applicant’s father is a U.S. citizen, and therefore a qualifying relative. However, the Applicant has not made any claims of hardship to his father. Therefore, he has not established his father would experience extreme hardship upon his removal.

by a qualifying relative, the lack of medical treatment for a qualifying relative, or the negative consequences of the loss of a primary caregiver.

Next, the Applicant mentions his mother's family members in the United States, her lack of family members in Mexico, her period of over 22 years of residence in the United States, her list of medical issues and access to quality health care providers, and his role as her caretaker. Last, the Applicant contends that the Director minimized the Applicant's role as his mother's caretaker, and the Director did not thoroughly analyze the facts and neglected many factors in determining whether he merits a waiver as a matter of discretion.

We will first address whether the Applicant's mother would experience extreme hardship if she remained in the United States. The Applicant's mother's medical records reflect that her right leg was amputated below her knee, and she has several other medical issues, including diabetes, hypertension, hyperlipidemia, dysphagia, cellulitis, congestive heart failure, and acid reflux. The Applicant states that he gives his mother insulin shots as she gets confused by the doses. He further mentions that due to her amputation and accompanying infections, she cannot care for herself and perform daily chores. He details the assistance he provides to her, including help with cooking, showering, doing the dishes, washing clothes, and buying groceries. The Applicant mentions that he goes to his mother's place every day and plays music for her, gives her light massages, and helps her exercise. He states she worries about him, like when he got in a serious car accident, and she told him she would be worried sick about him if he had to leave the United States. He states that his father is divorced from his mother and is in his eighties, therefore he cannot care for her, and his brother, who she lives with, works full-time and overtime hours. The Applicant's brother says that the Applicant is at his house daily to help care for their mother, and this gives her great comfort knowing the Applicant as he had injuries from his car accident.

The record reflects that the Applicant's mother would experience emotional difficulty if she remained in the United States without the Applicant due to her close relationship with him. However, the record does not establish that her hardship rises to the level of extreme hardship. The Applicant states that eight of his brothers and sisters live within 15 minutes of him. While the Applicant provides care for his mother, he has not provided sufficient evidence establishing his siblings would be unable to care for their mother, whether individually or collectively, in his absence. Additionally, the record does not include any statements from the Applicant's mother detailing the hardship she would experience without him, nor does it include evidence of any other types of hardship she may experience. Considering all the evidence in its totality, the record is insufficient to show that the hardship faced by the Applicant's mother upon remaining in the United States would rise beyond the common results of removal or inadmissibility. Therefore, the Applicant has not established that his mother would experience extreme hardship upon separation if his waiver application were denied.

The Applicant must establish by a preponderance of the evidence that denial of the waiver application would result in extreme hardship to his mother upon both separation and relocation. As the Applicant has not established extreme hardship to his mother in the event of separation, we cannot conclude he has met this requirement.

Furthermore, we need not reach, and therefore reserve, whether the Applicant merits a waiver as a matter of discretion. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make “purely advisory findings” on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where the applicant did not otherwise meet their burden of proof).

ORDER: The appeal is dismissed.