



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

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

In Re: 28208963

Date: OCT. 25, 2023

Appeal of Philadelphia, Pennsylvania Field Office Decision

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

The Applicant, a native and citizen of Liberia 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 Philadelphia, Pennsylvania Field Office denied the application, concluding that the record did not establish that he was otherwise eligible for adjustment of status. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Applicant states that his application for adjustment of status was mistakenly denied as a preference relative when he filed his application under the Liberian Refugee Immigration Fairness Act (LRIF).

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.

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. USCIS may grant a waiver of this inadmissibility if refusal of admission would result in extreme hardship to the U.S. citizen or LPR 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 that USCIS should favorably exercise its discretion and grant the waiver. *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).

The Director denied the Applicant's request for a waiver of inadmissibility because they believed the Applicant was applying for adjustment of status as a family-based preference immigrant and they had not lawfully maintained status as required under section 245(c) of the Act. 8 U.S.C. § 1255(c). On appeal, the Applicant states that he filed his Form I-485: Application for Adjustment of Status based on LRIF and not based on a family-based preference visa classification. USCIS records indicate that the Applicant's adjustment of status application was reopened following a motion to reconsider in September 2023.

Because the Director is currently reviewing the Applicant's application for adjustment of status and has not reviewed the evidence related to extreme hardship, we will remand the decision to the Director to determine, in the first instance, whether the Applicant has met his burden in establishing extreme hardship to a qualifying relative and whether he merits approval in the exercise of discretion.

ORDER: The Director's decision is withdrawn.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