



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

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

In Re: 23414541

Date: NOV. 08, 2022

Appeal of Irving Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant has applied to adjust status to that of a lawful permanent resident (LPR) and seeks a waiver of inadmissibility under section 212(g)(2)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(g)(2)(C), for failure to present documentation of having received vaccination against vaccine-preventable diseases. The Director of the Irving, Texas Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the record did not establish that he met the requirements for such a waiver. On appeal, the Applicant asserts that the Director did not correctly apply USCIS policy in making his decision. In these proceedings, it is the applicant's burden to establish by a preponderance of the evidence eligibility for the requested benefit. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). The Administrative Appeals Office reviews 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

Section 212(a)(1)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(1)(A)(ii), makes inadmissible any foreign national who seeks admission as an immigrant or adjustment of status to permanent resident and who has failed to present documentation of having received vaccination against vaccine-preventable diseases.

Section 212(g)(2) of the Act, 8 U.S.C. § 1182(g)(2), provides for a waiver of this inadmissibility under such circumstances as the [Secretary of Homeland Security] provides by regulation, with respect to whom the requirement of such a vaccination would be contrary to the applicant's religious beliefs or moral convictions.

II. ANALYSIS

The Applicant is the beneficiary of an approved immigrant visa petition filed by his spouse. With his application to adjust status, he submitted Form I-693, Report of Medical Examination and Vaccination Record. Part 10 of that form did not include any information regarding his vaccination record, but contained the statement "See waiver." In response to the Director's request for evidence (RFE), the Applicant submitted the waiver application at issue in this appeal, indicating that he sought a waiver of the vaccination requirements because vaccines are against his religious beliefs or moral convictions.

In his decision, the Director noted that the Applicant had submitted a vaccine record which stated that he had received several vaccinations as a young child, and that he had also stated during interview that he had last received a flu vaccination in 2014. From these facts, the Director concluded that the Applicant had not established that he was opposed to vaccinations in any form, “even as a child.”

On appeal, the Applicant refers to the section of the USCIS Policy Manual regarding waivers under section 212(g)(2) of the Act,¹ noting that it states that the fact that an individual has received some vaccinations but not others does not automatically disqualify them from the waiver, and that their reasons for receiving those vaccinations should be considered. Here, we agree with Applicant that the Director does not appear to have considered his explanations for receiving vaccinations as a child. The Applicant reiterated in his response to the Director’s RFE that as a child (less than three years old at the time of his immunizations), he did not have control over his own health and medical decisions and was subject to his parent’s decisions about what was best for him. We find that the Applicant’s explanation regarding his childhood vaccinations overcomes the Director’s concerns regarding whether he opposes vaccinations in all forms as required.

In addition to establishing their opposition to all vaccines, USCIS policy dictates that applicants must also show that their objection is based on religious beliefs or moral convictions, and that the belief or conviction is sincere.² Further, while a sworn statement may be sufficient to establish an applicant’s objection to the vaccination requirement, additional corroborating evidence supporting the background for the religious belief or moral conviction should be submitted, if available and credible.³

Here, the Petitioner submitted a signed statement listing his reasons for objecting to the vaccination requirement, and supported these by referencing passages in the Bible. He also indicated in his statement that he attends services in two specific churches and listens to many preachers online, but did not include supporting documentation regarding either of these churches or the beliefs held by those congregations.⁴ While an applicant for this waiver need not show that they are a member of a specific house of worship, it is their burden to establish that they have a strong objection to vaccinations based on religious beliefs or moral tenets, as opposed to a mere preference. In this case, although the Applicant’s religious beliefs are not in question, the record does not include sufficient evidence supporting the background of his objection to the vaccination requirement to establish that it rises above a preference. Therefore, the Applicant has not shown that a favorable exercise of discretion is warranted, and his waiver will remain denied.

ORDER: The appeal is dismissed.

¹ 9 USCIS Policy Manual D.3(E)(2), <https://www.uscis.gov/policy-manual>.

² *Id.*

³ *Id.* at (E)(3).

⁴ The Applicant did submit a baptism certificate from one of these churches, [redacted] dated three days after his marriage, as well as photographs showing both ceremonies.