



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

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

In Re: 18389715

Date: FEB. 10, 2022

Appeal of Nebraska Service Center Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant was found inadmissible to the United States under section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), based on a conviction for a crime involving moral turpitude (CIMT). She seeks a waiver of inadmissibility under section 212(h) of the Act.

The Director of the Nebraska Service Center denied the application, noting that the Applicant's conviction for being an accomplice to robbery was a crime involving moral turpitude (CIMT). The Director additionally held that the Applicant's conviction was for a violent or dangerous crime under 8 C.F.R. § 212.7(d) and she is subject to a heightened discretionary standard. However, the Director did not analyze whether the Applicant met the heightened discretionary standard, as the Director concluded that the Applicant did not establish that refusal of admission would cause extreme hardship to her spouse.

On appeal, the Applicant submits a brief and asserts that the Director erred in categorizing the crime as violent and dangerous and further contends that the Director did not properly evaluate the previously provided evidence. She claims that the record establishes that both her spouse and daughter will suffer extreme financial and emotional hardship if the waiver is not granted. The Applicant also submits new evidence that her spouse has relocated to Ecuador to be with her and their children.

In these proceedings the Applicant has the burden to establish eligibility for the requested benefit by a preponderance of evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010). Upon *de novo* review, we will remand the matter to the Director for the entry of a new decision.

While the Applicant does not contest that her conviction constituted a CIMT, she asserts that the conviction is not for a violent and dangerous crime. The Applicant further claims that even if she is subjected to a heightened discretionary standard, her waiver should be granted because her spouse and daughter would experience exceptional and extremely unusual hardship if she is unable to return to the United States.

In denying the waiver request, the Director acknowledged that the statements from the Applicant and her spouse, but determined that there was insufficient evidence to establish emotional extreme hardship. The Director further found that the record does not establish medical hardship, as the evidence provided indicated that the Applicant's spouse was being treated appropriately by his physician. With respect to financial hardship, the Director concluded that the submitted financial documents, without accompanying evidence of financial obligations, did not provide sufficient insight into the Applicant's financial situation to make a determination of financial hardship. The Director also claimed that the Applicant did not address that her U.S. citizen daughter would suffer extreme hardship if she were not admitted.¹ Finding that the Applicant did not demonstrate her qualifying relatives would suffer hardship beyond the common consequences of separation or relocation, the Director did not address whether a waiver would be warranted as a matter of discretion. Further, while the Director notes that the Applicant's crime is violent and dangerous, he did not explain or provide basis for this conclusion. In any case, the heightened standard pursuant to 8 C.F.R. § 212.7(d) is not explored as the Director concludes that the Applicant did not establish that a qualifying relative would experience extreme hardship if the Applicant were to remain inadmissible.

The Applicant now submits updated hardship statements from her spouse (including a statement confirming relocation to Ecuador), a letter from her spouse's psychologist with accompanying medical records, articles concerning the medication prescribed to the Applicant's spouse, information regarding COVID-19 in Ecuador, supplemental financial information, including a detailed household budget, and a study regarding the hardships caused by the separation of fathers from their daughters.

Since the Director has not reviewed this additional documentation we find it appropriate to remand the matter for the Director to consider the new evidence of extreme hardship. If the Director finds that the Applicant established extreme hardship to one or more qualifying relatives, the Director should then determine if the Applicant's conviction qualifies as a violent and dangerous crime, explain the basis of the conclusion, and whether the Applicant merits a discretionary waiver under the heightened standard.

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

¹ The record reflects that the hardship of the daughter of the Applicant and her spouse is, in fact, referenced in the July 2, 2020 response to the Director's request for evidence.