



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

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

In Re: 18374631

Date: FEB. 16, 2022

Appeal of Hialeah, Florida Field Office 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). He seeks a waiver of inadmissibility under section 212(h) of the Act to adjust status to that of a lawful permanent resident (LPR) in the United States.

The Director of the Hialeah, Florida Field Office denied the waiver request, concluding that the Applicant did not establish that the denial of waiver would cause extreme hardship to his son, brother, and father.

On appeal, the Applicant asserts that the Director did not analyze or mention extreme hardship to his LPR mother, and that his filing did not reference a brother.

In these proceedings the Applicant has the burden to establish eligibility for the requested benefit by a preponderance 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.

The Director stated that the Applicant was convicted of a crime of moral turpitude; however, the Director incorrectly cited section 212(a)(6)(C)(i) of the Act for inadmissibility based on fraud or misrepresentation and also cited section 212(i) of the Act for the waiver. Further, the Director did not address extreme hardship to one of the qualifying relatives, his LPR mother, whom the Applicant claims will experience extreme hardship because he is her primary caretaker. Because the record does not indicate whether the Director properly reviewed the record under correct inadmissibility and waiver grounds, and considered all qualifying relatives, we will remand the matter to the Director. The Director should consider the claims and evidence of extreme hardship under correct provision and determine whether the Applicant established extreme hardship to one or more qualifying relatives, and if so, whether he warrants a waiver in the exercise of discretion.

ORDER: The decision of the Director is withdrawn.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