



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

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

In Re: 22719212

Date: SEPT. 26, 2022

Appeal of Orlando, Florida Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a citizen of Venezuela, is the beneficiary of a visa petition approved pursuant to the provisions of the Violence Against Women Act (VAWA) as an abused spouse of a U.S. citizen. She seeks to adjust status to that of a lawful permanent resident (LPR) and seeks waivers of inadmissibility under section 212(h) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(h), and section 212(i) of the Act, 8 U.S.C. § 1182(i). The Director of the Orlando, Florida Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that while the Applicant established that denial of admission would result in extreme hardship to her qualifying relatives, she did not warrant a favorable exercise of discretion. The matter is before us on appeal. 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

A noncitizen convicted of (or who admits having committed, or who admits committing acts which constitute the essential elements of) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime is inadmissible. Section 212(a)(2)(A)(i) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i).

Any noncitizen who, by fraud or willfully misrepresenting a material fact, seeks to procure admission into the United States is inadmissible. Section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i).

U.S. Citizenship and Immigration Services (USCIS) may grant a discretionary waiver to self-petitioners under the Violence Against Women Act (VAWA) if refusal of admission would result in extreme hardship to the self-petitioner or to a qualifying relative or qualifying relatives. Section 212(h) of the Act; section 212(i) of the Act.

If the noncitizen demonstrates the existence of the required extreme hardship, then they must also show that USCIS should favorably exercise its discretion and grant the waiver. The burden is on the foreign national to establish that a waiver of inadmissibility is warranted in the exercise of discretion. *Matter of Mendez-Moralez*, 21 I&N 296, 299 (BIA 1996). The burden of proof is on an applicant to

demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The Applicant does not contest the finding of inadmissibility for having committed a crime involving moral turpitude, a determination supported by the record, which establishes that in 2009, the Applicant was convicted on four counts of marriage fraud in violation of 8 U.S.C. § 1325(c) and sentenced to 180 days of home detention and three years of probation. The Applicant asserts that she is not inadmissible for fraud or misrepresentation because her marriage fraud conviction was not related to seeking immigration benefits for herself, but instead assisting others in committing marriage fraud. Because she would remain inadmissible under section 212(a)(2)(A)(i) of the Act, we hereby reserve and decline to address the Applicant's inadmissibility under section 212(a)(6)(C)(i) of the Act. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); 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 an applicant is otherwise ineligible).

The burden is on the noncitizen to establish that a waiver of inadmissibility is warranted in the exercise of discretion. *Matter of Mendez-Moralez*, 21 I&N at 299. We must balance the adverse factors evidencing an applicant's undesirability as an LPR with the social and humane considerations presented to determine whether the grant of relief in the exercise of discretion appears to be in the best interests of the country. *Id.* at 300 (citations omitted). The adverse factors include the nature and underlying circumstances of the inadmissibility ground(s) at issue, the presence of additional significant violations of immigration laws, the existence of a criminal record, and if so, its nature, recency and seriousness, and the presence of other evidence indicative of bad character or undesirability. *Id.* at 301. The favorable considerations include family ties in the United States, residence of long duration in this country (particularly where residency began at a young age), evidence of hardship to the noncitizen and his or her family, service in the U.S. Armed Forces, a history of stable employment, the existence of property or business ties, evidence of value or service in the community, evidence of genuine rehabilitation if a criminal record exists, and other evidence attesting to good character. *Id.*

The Director indicated that the Applicant's favorable factors were her family ties, including her two U.S. citizen minor children, hardship to her children,¹ and letters of support from family and friends. The Director determined that that the Applicant's criminal activity – that of arranging fraudulent marriages for noncitizens who were in the United States contrary to the law, while she herself was in the United States contrary to the law – endangered the safety and well-being of the United States and its citizens.²

¹ The Applicant asserts that she and her children would experience emotional hardship if the waiver were denied because her former spouse would not allow their children to relocate to Venezuela. She further asserts that her children would experience emotional hardship resulting from being forced to live with their father who abused her.

² With respect to her conviction, the Applicant asserts that while the Director referenced a 2008 sworn statement, recorded by U.S. Immigration and Customs Enforcement (ICE) agents, where she purportedly indicated that she facilitated 100 marriage fraud cases, in actuality, she "worked with around 50 marriage cases (100 people, while I was working as a paralegal, but to my knowledge, only 4 of them were not valid marriages."

We acknowledge the additional favorable considerations, noted by the Applicant on appeal, including the apparent lack of criminal activity since her conviction in 2009, her history of abuse, her employment and support to her family, and hardship to the Applicant's parents³ and herself resulting from the adjustment to life in Venezuela.

We have considered the extent to which the Applicant's and her family's hardships and other factors mitigate the adverse factors in this case. However, we find the Applicant's conviction and immigration history to be a significant adverse factor. The record contains a copy of the Applicant's nine-count indictment, and count one of the indictment indicated that the Applicant knowingly established "a commercial enterprise for the purpose of evading the immigration laws." Counts two through nine of the indictment separately listed the fraudulent marriages that the Applicant was alleged to have facilitated; she was convicted on four of these eight counts. In addition, the 2008 sworn statement recorded by ICE indicates that the Applicant admitted to marrying her first husband in 2001 in order to obtain LPR status. The record also indicates that in 2004, the Applicant filed a Form I-360, Petition for Abused Spouse or Child of U.S. Citizen, based on her 2001 marriage which was denied in 2014.

Upon de novo review, we find that the Applicant's conviction for marriage fraud, which involved the facilitation of unlawful marriages for profit and her 2001 marriage entered into for the purpose of evading immigration laws are significant adverse factors that reflect an ongoing disregard for U.S. laws. We, therefore, conclude that the adverse factors outweigh the favorable factors, such that a favorable exercise of discretion is not warranted. Accordingly, the waiver application remains denied.

ORDER: The appeal is dismissed.

³ The Applicant asserts that her LPR parents would experience emotional hardship because they suffer from numerous medical conditions and rely upon her for assistance.