



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

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

In Re: 21944959

Date: AUG. 15, 2022

Appeal of St. Louis, Missouri Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of India, seeks a waiver of inadmissibility under section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i), for fraud or misrepresentation. The Director of the St. Louis, Missouri Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the Applicant did not establish that she had a qualifying relative, the initial requirement to establish eligibility for a waiver of inadmissibility. The waiver application was also denied as a matter of discretion. The matter is now before us on appeal. On appeal, the Applicant submits evidence and a brief asserting her eligibility. 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 remand the matter to the Director for the entry of a new decision.

I. LAW

Any foreign national 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. There is a waiver of this inadmissibility if refusal of admission would result in extreme hardship to the U.S. citizen or lawful permanent resident spouse or parent of the foreign national. If the foreign national demonstrates the existence of the required hardship, then they must also show that U.S. Citizenship and Immigration Services should favorably exercise its discretion and grant the waiver. Section 212(i) of the Act.

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). We recognize that some degree of hardship to qualifying relatives is present in most cases; however, to be considered “extreme,” the hardship must exceed that which is usual or expected. *See Matter of Pilch*, 21 I&N Dec. 627, 630-31 (BIA 1996) (finding that factors such as economic detriment, severing family and community ties, loss of current employment, and cultural readjustment were the “common result of deportation” and did not alone constitute extreme hardship). In determining whether extreme hardship exists, individual hardship factors that may not rise to the

level of extreme must also be considered in the aggregate. *Matter of Ige*, 20 I&N Dec. 880, 882 (BIA 1994) (citations omitted).

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 was found inadmissible under section 212(a)(6)(C)(i) of the Act for fraud or misrepresentation and she does not contest that finding on appeal.¹ The Applicant asserted in her waiver application that D-P-² a U.S. citizen, is her mother and qualifying relative for her waiver application, and her mother would experience extreme hardship if she were refused admission to the United States. However, the Director determined that the Applicant did not establish D-P- is her mother and therefore she did not have a qualifying relative. Specifically, the Director noted that the Applicant's birth certificate did not list a mother, D-P- was listed as her aunt in her 2020 federal tax return, and U.S. Department of State information reflects that birth certificates are unavailable for individuals born prior to April 1, 1970, which includes the Applicant. In addition, the Director determined that the Applicant did not merit a waiver as a matter of discretion.

The Applicant submits material evidence on appeal, including a DNA test report for her and D-P-, a report from an Indian attorney, affidavits related to her relationship with D-P-, her amended 2020 federal tax return, medical records for D-P-, photographs, statements from individuals related to her relationship with D-P-, and a utility bill.

Considering the new evidence submitted on appeal relating to the Applicant's relationship with D-P-, we find it appropriate to remand the matter for the Director to determine if the Applicant has established that she has a qualifying relative, and if so, whether her qualifying relative would experience extreme hardship. If the Director finds that the Applicant has established extreme hardship to a qualifying relative, then the Director must consider whether the Applicant merits a favorable 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.

¹ The Applicant misrepresented several pieces of information related to her identity while seeking to procure admission to the United States on August 25, 1996.

² We use initials to protect individual identities.