



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

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

In Re: 21880558

Date: AUG. 25, 2022

Appeal of Nebraska Service Center Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant seeks a waiver of inadmissibility under section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i), for misrepresenting a material fact. U.S. Citizenship and Immigration Services (USCIS) may grant a discretionary waiver under this provision if refusal of admission would result in extreme hardship to a qualifying relative. The Nebraska Service Center Director denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application). We review 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 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 discretionary waiver of this inadmissibility if refusal of admission would result in extreme hardship to the United States citizen or lawful permanent resident spouse or parent of the noncitizen. 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 Applicant bears the burden of demonstrating eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The record reflects that the Applicant entered the United States in 1987 as a F-1 nonimmigrant student and became a lawful permanent resident in 1998 based on his 1997 marriage to his current spouse. In 2007 the Applicant was ordered removed by an immigration judge based on a finding of deportability under section 237(a)(1)(A)/212(a)(6)(C)(i) for misrepresentation related to a 1989 marriage to another U.S. citizen.¹ However, the Applicant departed the United States in 2006 for his native Jordan, where he now resides. In 2015 the Applicant's spouse filed a Form I-130, Petition for Alien Relative, on his behalf, which was approved in 2016, but the Applicant was denied a visa by a consular officer of the U.S. Department of State (DOS) who found the Applicant inadmissible under Section 212(a)(6)(C)(i) of the Act.

The Applicant filed a waiver application with the Nebraska Service Center that the Director denied in 2019, finding the Applicant did not establish extreme hardship to his U.S. citizen spouse, the only qualifying relative. On appeal, the Applicant submitted new evidence related to events occurring after the denial, so we remanded the matter to the Director to consider that evidence. The Director again denied the waiver application.

An applicant may show extreme hardship in two scenarios: 1) if the qualifying relative remains in the United States separated from the applicant and 2) if the qualifying relative relocates overseas with the applicant. Demonstrating extreme hardship under both of these scenarios is not required if an applicant's evidence establishes that one of these scenarios would result from the denial of the waiver.² Here the Director observed that the spouse indicated she would remain in the United States so only considered hardship upon separation, not relocation.

In support of the waiver application the Applicant submitted a personal statement along with affidavits from his spouse and children; psychological evaluations of his spouse and a son; financial documents; medical records; letters of support; a police report involving a threat to the family; travel itineraries between the United States and Jordan; civil documents; and country conditions information for Jordan. The Applicant described the family's unsuccessful attempt to relocate to Jordan in 2007 only to return to the United States in 2014 and subsequently visit him multiple times. He discussed cultural, language, and ethnic obstacles and the children's wellbeing in Jordan, where one suffered stress-related arm and leg paralysis for months and another developed depression and suicidal ideation from an unsettled home life. The Applicant contended that without him in the United States, his spouse has the responsibility of single parenting and was exploited by his business partners, resulting in lawsuits.

In her affidavits, the spouse detailed struggles for her and her children while living in Jordan for seven years before returning in 2014 to the United States, where she stated that she has a network of friends and family including nine siblings as well as nieces and nephews. She recalled that until she was able to purchase a home, she and her children stayed with a brother, but because she had teenage sons while

¹ The Director referred to a 2005 Notice to Appear that contained allegations of willful misrepresentation based on an attempt to enter into a marriage for the purpose of evading immigration laws, but also indicates that the Applicant's responses on multiple immigration applications were material misrepresentations. The Applicant disputes his first marriage was a sham, and we note that the immigration judge made no ruling on the marriage fraud charge.

² 9 USCIS Policy Manual B.4(B), <https://www.uscis.gov/policymanual> (discussing, as guidance, how applicants can establish extreme hardship upon separation or relocation).

he had teenage daughters, it was not culturally acceptable to stay together so they then lived with an unmarried brother. She also stated that her oldest son had stayed with two of her sisters so he could attend school in the United States while the rest of the family was in Jordan.

The spouse maintained that because of separation from the Applicant, the couple misses important religious holidays together, the children are growing up without their father in their daily lives and have difficulty being separated from him, and one son developed depression and is suicidal. She called it painful to see her son suffer and states that it is difficult to keep in contact with the Applicant in Jordan and that traveling back and forth is expensive.

The spouse stated that she supports herself financially with income from several businesses she and the Applicant have in the United States, including apartment buildings and a gas station, but that without him she was forced to keep the businesses open while caring for five children, her oldest son took time off college to help with one of the businesses, and she always feels she is in crisis mode. She stated that they own some apartment buildings in partnership with the Applicant's brother, who takes advantage of her for management fees, while another of his brothers has power-of-attorney for a shared store but changed it to his name, resulting in a lawsuit. The spouse asserted that legal actions have caused problems between the Applicant and his brothers and her two sisters who are married to them, and that she is losing income while also paying attorney fees.³ Evidence submitted by the Applicant includes attorney invoices and a letter from a law firm representing him.

According to a 2017 psychological evaluation, the spouse was diagnosed with adjustment disorder with mixed anxiety and depressed mood. The psychologist recommended psychotherapy to mitigate damage from the Applicant's long-term absence and the spouse's inability to cope while describing her as poorly equipped to confront the consequences of his ongoing absence and meet the needs of her children. The psychologist observed that the spouse appears outwardly functional but has significant ongoing psychosocial circumstances that diminish the quality of the family's life. The evaluation indicated that the spouse reported experiencing stress that causes headaches and back pain and has affected her social functioning where she pulls away from her siblings to focus on her responsibilities, and that she was considering outpatient psychotherapy. The psychologist concluded that the spouse's unsatisfactory attempt to cope with emotional disturbance threatens the family's ability to function, that recurrent relocations to Jordan were detrimental to their emotional well-being, and that one son was unable to cope with the relocation and with permanent estrangement from his father.

A separate 2018 evaluation showed the son diagnosed with major depressive disorder and that he did not perform at grade and age level. The evaluation identified him as experiencing significant emotional disturbance from being unable to access emotional support from his father and recommended therapy and consideration of psychotropic medication. A letter from a school counselor observed the son has mental health concerns causing behavior problems with attendance and motivation, and a school document showed reasonable accommodation would be made to include partnering with a teacher, extra time for assignments, and visits with a counselor. A June 2019 letter from a psychiatrist in Jordan indicated that the son was first seen on June 1, 2019, and that after a review of his history and a mental state examination he was diagnosed as "emotional unstable" with

³ The spouse identifies five lawsuits involving their businesses, two of which she described as now dismissed. A letter from a law firm representing the Applicant indicated they had "successfully" resolved two disputes.

recommendations including medical supervision, cognitive behavior therapy, and psychoeducation. The letter does not explain how the examination was performed, whether in person or virtually, and the record contains no further detail or follow-up information from this examination.

In denying the waiver application, the Director noted that the spouse has five children and her own eight siblings as well as the Applicant's siblings in the United States, and therefore she had significant social and emotional support. The Director referred to the spouse's claim of a medical history including polycystic ovarian disease and hypoglycemia but noted records showed the conditions had been treated or resolved. The Director recognized opinions in the psychological evaluation that continued separation would cause emotional hardship for the spouse and children and concluded that the evaluation showed they were recommended to receive outpatient psychotherapy services, but there was no indication of any follow through or results. The Director noted evidence showed that a school counselor arranged reasonable accommodation for the Applicant's son, but there was no indication of its effectiveness in addressing his behavior, and that he was seen by a psychiatrist but there was no indication if any recommendations were employed.

The Director further found that financial documents did not contain evidence to support the claim that the spouse experiences extreme financial hardship; there was no evidence of her overall financial picture, including income, expenses, liabilities, and assets; and without additional evidence to establish her financial situation, it was impossible to assess the level of hardship. The Director noted claims involving a business dispute with the Applicant's brother and threats to their son regarding a lawsuit, and that the Applicant submitted a police threat report. The Director acknowledged that fears the brother would harm the family causes the spouse distress but surmised that it appeared after consultation with police there were no additional threatening messages.

On appeal, the Applicant argues that the Director listed the evidence but provided minimal evaluation and did not evaluate the totality of circumstances including the spouse's relatives in the United States, ties outside of the United States, conditions abroad, financial and health impacts, and other hardships. The Applicant contends that separation for more than 14 years and raising five children alone is extreme hardship, in particular the psychological hardship to her and her children due to prolonged separation. He states that though their son is not a qualifying relative for the waiver, dealing with his situation has a direct adverse impact on his spouse as sole care provider. The Applicant highlights the diagnoses and conclusions of the psychological evaluations and contends that his spouse has tried to remedy the family situation by splitting time between the United States and Jordan but that has only exacerbated their hardship. The Applicant asserts that his spouse faces financial hardship as a result of his complex business situations resulting in threats from his brother against her over a legal dispute and contends that the Director did not address the high costs of raising five children plus travel to Jordan as resulting cumulatively in extreme hardship when considered with other hardship factors.

While acknowledging the emotional difficulties for the spouse due to separation from the Applicant, the Director determined that the record did not demonstrate they rise above the distress normally experienced with family separation due to removal or inadmissibility. The Director noted specifically that the record lacked evidence of follow-up to the recommendations provided in the psychological evaluation. On appeal the Applicant has not addressed this deficiency identified by the Director. While the psychological evaluation describes the spouse as unable to cope with separation, neither the evaluation nor the spouse's affidavit details her daily life, any inability to function on a day-to-day

basis and meet her responsibilities, or the effect on her carrying out any other activities caused by the hardship of separation from the Applicant. We also recognize the spouse's concern for her son, who was born in 2002, and observations in the psychological evaluations. The Applicant has not provided updated information as to whether the son has followed up with treatment recommended in the evaluations or the effectiveness of any treatment provided. The spouse states that she has nine siblings as well as nieces and nephews in the United States and indicates that they have provided assistance to her and her children in the past. The record contains letters in support of the Applicant's waiver application from some of the spouse's family members. Although the Applicant describes problems with his two brothers over business dealings and the spouse indicates the brothers are married to her sisters, neither the Applicant nor his spouse addresses whether the spouse's extensive family network in the United States, many of whom also reside in Minnesota, is able to provide her with emotional or financial assistance.

Neither the Applicant nor his spouse detail threats from the Applicant's brother, but an [REDACTED] 2019 [REDACTED] Minnesota, Police Department incident report indicates that the spouse reported family members received messages in Arabic from the brother for the Applicant that included general threats he would "get even with you through you and your children" if a civil lawsuit against the landlord of a shared business was continued. The police report states the spouse was concerned because she lived alone with her children, but indicates that other family members intervened to prevent him from causing any harm.

Financial documents submitted by the Applicant include a Form 1040 Schedule E for 2012, 2013, and 2016 along with travel itineraries and attorney invoices. The Director determined that the Applicant did not submit sufficient evidence to establish his spouse's financial situation and noted specifically that the record lacked evidence of the spouse's income, expenses, liabilities, and assets. On appeal the Applicant contends his spouse suffers financial hardship because of his business situations and legal disputes, the costs of raising five children, and travel to visit Jordan, but he has not otherwise addressed the deficiency noted by the Director or provided supplemental evidence to illustrate his spouse's complete financial picture. The spouse's affidavits state that the family purchased a home, and the psychological evaluation indicates that she reported their businesses as lucrative, but the Applicant has not submitted documentation to establish his spouse's income and daily expenses.

The Applicant also maintains that the Director did not consider factors including the spouse's ties outside the United States and conditions abroad, but the Director stated that the spouse indicated she would remain in the United States and therefore considered only hardship upon separation.

Based on the documentation in the record as it stands, we cannot conclude that, when considered in the aggregate, the emotional and financial hardships the spouse experiences due to separation from the Applicant go beyond the common results of inadmissibility or removal and rise to the level of extreme hardship. As such, no purpose would be served in determining whether the Applicant merits a waiver as a matter of discretion. The waiver application will remain denied.

The Applicant has the burden of proving eligibility for a waiver of inadmissibility. Section 291 of the Act, 8 U.S.C. § 1361. Here, he has not met that burden.

ORDER: The appeal is dismissed.