



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

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

In Re: 22001083

Date: AUG. 25, 2022

Appeal of San Francisco, California Field Office 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 willful misrepresentation of a material fact.¹ The Director of the San Francisco, California Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds, concluding that the Applicant did not establish a qualifying relative will suffer extreme hardship if he is denied admission.² The matter is now before us on appeal. On appeal, the Applicant submits new evidence and asserts that the record establishes extreme hardship to his U.S. citizen spouse. We review the questions raised 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.

In this case, the Applicant filed the waiver application due to inadmissibility for fraud or willful misrepresentation under section 212(a)(6)(C)(i) of the Act, a ground of inadmissibility he does not contest. He seeks a waiver of this inadmissibility under section 212(i) of the Act.³ The Applicant submits material evidence on appeal, including his spouse's updated psychological evaluation, which discusses how the Applicant's removal would impact his spouse's mental health and impair her ability to care for herself and her children, especially in light of the domestic violence she suffered in a previous relationship, and indicates his spouse has been diagnosed with Major Depressive Disorder and suffers from severe anxiety and panic attacks. The Applicant also provides updated medical records for his spouse, which reflect continuing physical complications, medical care, and work

¹ The Director also found the Applicant inadmissible under section 212(a)(9)(B)(i) of the Act for unlawful presence.

² In a separate decision, the Director denied the Applicant's Form I-212, Application for Permission to Reapply for Admission, concluding, in part, that as no Form I-601 had been approved, he would remain inadmissible even if U.S. Citizenship and Immigration Services were to approve his Form I-212.

³ For purposes of obtaining a waiver pursuant to section 212(i) of the Act, for fraud or willful misrepresentation, the applicant must demonstrate that refusal of admission would result in extreme hardship to a qualifying relative or qualifying relatives. 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. The applicant may meet this burden by submitting a statement from the qualifying relative certifying under penalty of perjury that the qualifying relative would relocate with the applicant, or would remain in the United States, if the applicant is denied admission. See 9 USCIS Policy Manual B.4(B), <https://www.uscis.gov/policymanual> (explaining, as guidance, establishing hardship upon separation or relocation).

restrictions resulting from past shoulder, knee, and back injuries; tax and financial documents; and lawful permanent resident cards for the Applicant's daughter and his spouse's mother.

Considering the new evidence submitted on appeal relating to the claimed hardship the Applicant's spouse would experience if he is removed to Mexico, we find it appropriate to remand the matter for the Director to determine if the Applicant has established extreme hardship to his qualifying relative. If the Director finds the Applicant has established extreme hardship to his U.S. citizen spouse, 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.