



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

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

In Re: 22260064

Date: AUG. 25, 2022

Appeal of San Fernando, 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 fraud or willful misrepresentation. The Director of the San Fernando, California Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds, concluding that the Applicant did not establish a qualifying relative or qualifying relatives will suffer extreme hardship if she is denied admission. The matter is now before us on appeal. On appeal, the Applicant submits new evidence and asserts that the record establishes extreme hardship to her U.S. citizen spouse and mother. 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 she does not contest. She seeks a waiver of this inadmissibility under section 212(i) of the Act.¹ The Applicant submits material evidence on appeal, including her spouse's declaration detailing the emotional, medical, and financial hardship he would suffer if the Applicant is denied admission; statements from family members and friends detailing the spouse's reliance on the Applicant; her spouse's psychological evaluation, which discusses how the Applicant's removal would impact his mental and physical health and impair his ability to care for himself and their children, and indicates her spouse suffers from anxiety and depression. The Applicant also provides updated medical records for her spouse, which reflect continuing complications due to his health conditions, such as severe sleep apnea, high blood pressure and cholesterol, and recurring prostate and urinary tract concerns; the Applicant's medical records; employment and financial documents; and various articles discussing the spouse's medical conditions and the impact of a mother's absence on children and family members.

¹ 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. 9 USCIS Policy Manual B.4(B), <https://www.uscis.gov/policymanual>.

Considering the new evidence submitted on appeal relating to the claimed hardship the Applicant's spouse and mother would experience if she 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 a qualifying relative or qualifying relatives. We further note that the Director erred by not addressing how the claimed difficulties the Applicant's and spouse's children may experience without the Applicant would impact the spouse.² If the Director finds the Applicant has established extreme hardship to her U.S. citizen spouse or mother, 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.

² “[T]he significant shifting of caregiving or income-earning responsibilities would often weigh heavily in support of a finding of extreme hardship to the qualifying relative” and “additional emotional, psychological and/or economic stress for the qualifying relative could exceed the levels of hardship that ordinarily result from family separation, and rise to the level of extreme hardship” provided that the Applicant submits sufficient supporting evidence. *See 9 USCIS Policy Manual B.5(E)5*, <https://www.uscis.gov/policymanual> (discussing, as guidance, the substantial displacement of care of an applicant's children and how this significant factor may impact whether a denial of admission would result in extreme hardship).