



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

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

In Re: 23335654

Date: DEC. 6, 2022

Appeal of Minneapolis-St. Paul, Minnesota Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of Liberia, has applied to adjust status to that of a lawful permanent resident (LPR) and 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 Minneapolis-St. Paul, Minnesota Field Office denied the waiver application, concluding that the record did not establish that the Applicant's spouse would experience extreme hardship if the Applicant were removed from the United States. The Director also denied the waiver application as a matter of discretion for the reason that the negative factors in the Applicant's case based on his criminal conduct outweigh the positive factors in his case.

On appeal, the Applicant submits a brief and evidence and contends that the Director failed to properly consider medical, emotional, and financial hardships to the Applicant's spouse.

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). In these proceedings, it is the applicant's burden to establish eligibility for the requested benefit by a preponderance of evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

Section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), renders inadmissible any 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, admission into the United States, or other benefit provided under the Act. Section 212(i) of the Act provides for a waiver of this inadmissibility if refusal of admission would result in extreme hardship to the U.S. citizen or LPR spouse or parent of the noncitizen.

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).

## II. ANALYSIS

The Applicant was found inadmissible for fraud or misrepresentation under section 212(a)(6)(C)(i) of the Act for entering the United States using a fraudulent passport and visa. The Applicant does not contest this determination on appeal, and it is supported by the record. Thus, the remaining issues on appeal are whether the Applicant has demonstrated that his qualifying relative will suffer extreme hardship if the inadmissibility is not waived, and if so, whether he merits a waiver as a matter of discretion.

The Applicant must demonstrate that denial of the application would result in extreme hardship to a qualifying relative or qualifying relatives, in this case, the Applicant’s U.S. citizen spouse. 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. *See 9 USCIS Policy Manual B.4(B)*, <https://www.uscis.gov/policymanual> (providing, as guidance, the scenarios to consider in making extreme hardship determinations). Demonstrating extreme hardship under both of these scenarios is not required if the applicant’s evidence demonstrates that one of these scenarios would result from the denial of the waiver. *See id.* (citing to *Matter of Calderon-Hernandez*, 25 I&N Dec. 885 (BIA 2012) and *Matter of Recinas*, 23 I&N Dec. 467 (BIA 2002)). 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 id.* In the present case, the record contains a statement from the Applicant’s spouse, indicating that she fears going back to Liberia. The Applicant’s spouse further stated that she fled Liberia as a refugee, that she had a harsh life in Liberia due to violence and political persecution, and that her family witnessed human rights abuses and death. The Applicant must, therefore, establish that if he is denied admission, his qualifying relative would experience extreme hardship upon separation.

Regarding financial hardship, the Applicant’s spouse stated that while the Applicant was in the custody of U.S. Immigration and Customs Enforcement (ICE) from [redacted] 2018 to [redacted] 2020, she was the primary income earner and the sole parent of their 13-year-old daughter. The Applicant’s spouse stated that she did not have money to buy gas to drive to work; sometimes she and her daughter did not have anything to eat because she did not have any money; when she had to work early or late, she had to find someone who could watch her daughter; and she had to move to a more affordable apartment because the rent was too high at their previous apartment. The Applicant’s spouse also stated that she earned \$1,600 per month as a stocker at Walmart, her monthly expenses were \$2,527, and she owed over \$17,585.64 to credit card companies. The Applicant submitted his spouse’s paystubs, a statement for the rent, statements for car and health insurance premiums, utilities bills, and account statements from credit card companies. The Director found that this type of hardship did not

rise to the level of extreme as it is a common hardship faced by any family should a member of the family be removed from the United States.

On appeal, the Applicant contends that the Director did not properly address financial hardship and claims that his spouse opened credit cards to cover her monthly expenses. However, the record does not sufficiently establish the Applicant's spouse's current financial circumstances. For example, the record does not establish whether the Applicant's spouse would still need childcare for her daughter. Further, it has not been established that the Applicant would be unable to contribute to the family's income from a location outside the United States or that the Applicant's spouse would not be able to adjust to the new circumstances; for example, she moved to a more affordable apartment while the Applicant was in ICE custody. While it appears that a separation would cause financial difficulties due to credit card debt and other monthly expenses, the evidence in the record does not establish that the hardship would rise above the hardship normally experienced due to separation, and, therefore, does not meet the criteria of extreme hardship.

Regarding emotional hardship, the Applicant submitted a letter, dated November 2020, from a licensed clinical social worker and a psychotherapist at [REDACTED] Clinic, an outpatient mental health non-profit agency. The social worker stated that the Applicant's spouse met the diagnostic criteria for major depressive disorder and post-traumatic stress disorder and that the spouse's depressive and post-traumatic symptoms began when the Applicant was detained by ICE in [REDACTED] 2018 and were unrelenting until he came home in [REDACTED] 2020. The social worker further stated that without the assurance of safety for the Applicant, the Applicant's spouse's functioning would dramatically decline, and she would be severely impaired in her ability to provide for the physical, emotional, and psychological needs of her daughter.

The Applicant also submitted a letter, dated September 2020, from a licensed clinical social worker at [REDACTED]. The social worker stated that the Applicant's spouse depends on the Applicant emotionally, financially, and in raising their daughter. The social worker further stated that while the Applicant was in ICE detention, the Applicant's spouse reported depressed mood, lack of energy, fatigue, loss of interest in significant activities, difficulty sleeping, and significant worries, but now that the Applicant has been released from ICE detention, she no longer has these feelings. The social worker stated that the Applicant's spouse does not meet the criteria for major depressive disorder, but if the Applicant is deported, the symptoms she experienced during his physical absence while in ICE detention would return.

The Director noted that both social workers stated that the Applicant's spouse's symptoms of depression diminished once the Applicant was released and back at home. The Director further noted that both letters do not mention the Applicant's most recent arrest or incarceration or how it has affected the Applicant's spouse. The Director added that the Applicant was accused by his spouse's developmentally delayed niece of sexual abuse while the niece was residing in their home and that this would likely have contributed the Applicant's spouse's depression and psychological functioning.

On appeal, the Applicant asserts that the dismissed criminal charges against him were previously addressed during the clinical interviews with the expert. The Applicant submits a letter from the social worker at [REDACTED] Clinic, which states that the Applicant's spouse's depressive and post-traumatic

symptoms are primarily related to the potential deportation of the Applicant, and not to the allegations made against the Applicant in the past and his arrest by ICE agents.

On appeal, Applicant also contends that the Director disregarded the findings of psychological and emotional hardships made by two independent evaluators and that the Director did not properly address the diagnosis of major depressive disorder and post-traumatic depressive disorder. The Applicant asserts that his spouse will suffer extreme psychological and emotional hardships from depression and cognitive functions resulting from the Applicant's removal. However, the record does not contain any treatment plan for the Applicant's spouse's diagnosis or ongoing sessions with a psychologist, a counselor, a psychotherapist, or other mental health professionals. The record also does not contain sufficient evidence to demonstrate whether the Applicant's spouse needs daily assistance due to her diagnosis. The evidence in the record does not sufficiently establish that the emotional effects of separation from the Applicant would rise to the level of extreme hardship.

Regarding medical hardship, the record contains letters from a medical clinic, which state that the Applicant's spouse has an umbilical hernia and right tympanic membrane rupture that may require elective surgery in the future, that she is not allowed to push anything greater than 15 pounds due to her umbilical hernia, and that she also deals with allergic conjunctivitis and pterygium of both eyes. The Applicant's spouse stated that when she was sick, the Applicant cleaned the house and took care of her and their daughter. The Applicant's spouse also stated that her health conditions cause her daily problems, that she is at risk of further complications, and that she has to push heavy objects at work. The Director found that the Applicant's spouse did not explain her work duties, how she pushes more than 15 pounds, and what specific help the Applicant provides or how this would be an extreme hardship should the Applicant be removed from the United States. The Director also noted that the Applicant's spouse's medical issues of umbilical hernia and right tympanic membrane rupture could be corrected by elective surgery, according to the letters from the clinic.

On appeal, the Applicant claims that expert opinions and letters of witnesses corroborate medical conditions of the Applicant's spouse. The record contains letters from family and friends. These letters praise the Applicant as a valued member of the community; a conscious and hardworking worker; a productive taxpayer; a loving and caring husband and father; a churching going Christian man; a kind, honest, obedient, and responsible person; and a law-abiding citizen. However, these letters from family and friends do not demonstrate that the Applicant's spouse would suffer extreme medical hardship if she is separated from the Applicant. In addition, the record does not contain sufficient medical documentation to substantiate the claim that the Applicant's spouse would suffer extreme medical hardship without the Applicant. The Applicant did not establish the severity of the Applicant's medical condition or the treatment and assistance needed. Moreover, the documents provided do not indicate what role the Applicant plays in medical treatment of his spouse's medical issues.

Regarding other personal hardship relating to their daughter, the Applicant's spouse stated that their daughter experienced panic attacks and was unable to sleep at night while the Applicant was in ICE custody. The Applicant's spouse stated that their daughter was born with spina bifida occulta, which means that her spine did not properly develop when she was born, and that because of this condition, their daughter is constantly in need of medical check-ups. The record contains a letter from a medical clinic, which states that the Applicant's daughter was born with spina bifida occulta and that this

condition was surgically repaired when she was 5 days old. The Director found that the Applicant did not submit evidence to show how their daughter's health issue affects her daily living or how this would cause extreme hardship to the Applicant's spouse should the Applicant be removed from the United States. The Director also noted that the daughter's spina bifida occulta was surgically repaired when she was 5 days old.

For a waiver of the inadmissibility, a qualifying relative is the U.S. citizen or LPR spouse or parent. The Applicant's child is not a qualifying relative. However, we consider any hardship that the qualifying relative may experience as a result of hardships to other nonqualifying relatives. Here, the record does not contain sufficient medical documentation to substantiate the claims regarding panic attacks, sleep difficulty, and constant needs of medical check-ups after the successful repair of congenital spina bifida occulta and that the Applicant's absence would impose an extreme hardship on the Applicant's spouse.

As noted above, the Applicant must establish that denial of the waiver application would result in extreme hardship to his spouse upon separation. While we are sympathetic to the family's circumstances, considering all the evidence in its totality, the record remains insufficient to establish that the aggregated financial, medical, emotional, psychological, and other personal hardships of separation would be unusual or atypical to the extent that they rise to the level of extreme hardship. On appeal, the Applicant asserts that he deserves favorable discretion because all of the alleged criminal charges filed against him were ultimately dismissed. However, because the Applicant has not demonstrated extreme hardship to his qualifying relative if he is denied admission to the United States, we need not consider whether he merits a waiver in the exercise of discretion. Therefore, the waiver application will remain denied.

### III. CONCLUSION

The Applicant has not established his statutory eligibility for the requested waiver under section 212(i) of the Act. Accordingly, the waiver application will remain denied.

**ORDER:** The appeal is dismissed.