



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

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

In Re: 23888325

Date: DEC. 19, 2022

Appeal of Nebraska Service Center Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant seeks a waiver of inadmissibility under the Immigration and Nationality Act (the Act) section 212(i), 8 U.S.C. § 1182(i), for fraud or misrepresentation of a material fact.

The Director of the Nebraska Service Center determined that the Applicant is inadmissible to the United States for alien smuggling under section 212(a)(6)(E)(i) of the Act and denied the waiver, concluding that the Applicant was statutorily ineligible for a waiver under section 212(d)(11) of the Act because she did not have a qualifying familial relationship with the noncitizen she assisted in attempting to enter the United States unlawfully. The matter is now before us on appeal. 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). 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.

Any noncitizen who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other noncitizen to enter or to try to enter the United States in violation of law is inadmissible. Section 212(a)(6)(E)(i) of the Act. A discretionary waiver is available for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest in the case of an applicant seeking admission or adjustment of status as an immediate relative or immigrant under section 203(a) (other than paragraph (4) thereof), if the applicant has encouraged, induced, assisted, abetted, or aided only an individual who at the time of the offense was the applicant's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law. Section 212(d)(11) of the Act.

In the denial, the Director found that the Applicant is statutorily ineligible for a waiver under section 212(d)(11) of the Act, which requires a showing that the Applicant and the smuggled individual have one of the qualifying familial relationships listed above. The Director explained that DNA testing revealed that the individual the Applicant smuggled was her grandchild; because this is not one of the above listed qualifying familial relationships, the Director concluded that the Applicant is ineligible for a waiver under section 212(d)(11) of the Act.

On appeal, the Applicant makes two divergent arguments. On the one hand, she asserts that the Director misinterpreted the U.S. Consulate's letter regarding the basis for her inadmissibility and

argues that the U.S. Consulate “clearly stated” that she is inadmissible for fraud or misrepresentation under section 212(i) of the Act and “unequivocally advised” her of her eligibility for a waiver. On the other hand, the Applicant acknowledges that the consular officer: 1) cited section 212(a)(6)(E); 2) concluded that “the Applicant’s admission to the United States is barred by section 212(a)(6)(E) of the Act”; and 3) advised the Applicant that “USCIS may consider only whether the Applicant qualifies for a waiver” under section 212(a)(6)(E) of the Act. (Emphasis added in original). In addition, the Applicant provides a letter from the U.S. Consulate in Pakistan informing her that she is inadmissible to the United States under section 212(a)(6)(E) of the Act for knowingly assisting another individual to obtain a U.S. immigration benefit to which they were not otherwise entitled.

The Applicant also argues that the consular letter did not list section 212(a)(6)(E)(i) of the Act, but rather listed section 212(a)(6)(E) of the Act as the basis for inadmissibility, thus indicating that the consular letter did not clearly identify alien smuggling as a basis for the Applicant’s inadmissibility. We disagree. The section of the law referenced in the consular letter, i.e., section 212(a)(6)(E) of the Act, is titled “Smugglers,” thus leaving no question as to the ground of inadmissibility discussed in the consular letter.

In light of the above, we adopt and affirm the Director’s decision that the Applicant is statutorily ineligible for a waiver under section 212(d)(11) of the Act. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Chen v. INS*, 87 F.3d 5, 7-8 (1st Cir. 1996) (“we join eight of our sister circuits in ruling that the Board [of Immigration Appeals] need not write at length merely to repeat the IJ’s [Immigration Judge’s] findings of fact and his reasons for denying the requested relief, but, rather, having given individualized consideration to a particular case, may simply state that it affirms the IJ’s decision [here, the Director’s decision] for the reasons set forth in that decision.”).

ORDER: The appeal is dismissed.