



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

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

In Re: 08908908

Date: FEB. 15, 2022

Appeal of Long Island, New York Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of India, has applied to adjust status to that of a lawful permanent resident (LPR) and 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.

The Director of the Long Island, New York Field Office denied the waiver, concluding that the record did not establish the Applicant's qualifying relatives (his U.S. citizen spouse and LPR father) would experience extreme hardship if the waiver is not granted. On appeal, the Applicant submits additional evidence and a brief asserting that his spouse and father would both experience extreme hardship if his waiver were denied. 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). Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

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, or admission into the United States or other benefit provided under the Act, is inadmissible. Section 212(a)(6)(C)(i) of the Act. This ground of inadmissibility may be waived as a matter of discretion if refusal of admission would result in extreme hardship to a U.S. citizen or LPR spouse or parent. 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). In these proceedings, it is the applicant's burden to establish by a preponderance of the evidence eligibility for the requested benefit. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

## II. ANALYSIS

The Applicant does not contest the grounds for inadmissibility, as described in the Director's decision, which we incorporate here.<sup>1</sup> The issue on appeal is whether the Applicant has demonstrated that his U.S. citizen spouse and LPR father would experience extreme hardship upon denial of the waiver.

The Applicant must demonstrate that denial of the application would result in extreme hardship to a qualifying relative or relatives, in this case his U.S. citizen spouse and LPR father. Section 212(i) of the Act.<sup>2</sup> An applicant may show extreme hardship in two scenarios: 1) if the qualifying relatives remain in the United States separated from the applicant and 2) if the qualifying relatives relocate 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(s) 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 does not contain a statement from the Applicant's spouse or father indicating whether they intend to remain in the United States or relocate to India if the Applicant's waiver application is denied. The Applicant must therefore establish that if he is denied admission, his qualifying relatives would experience extreme hardship both upon separation and relocation.

The record reflects that the Applicant and his spouse have been married since 2015. They both state that they reside in a house together and have two U.S. citizen children, a daughter now age 20 and a son now age 19, who are both students.<sup>3</sup> In support of his waiver request, the Applicant initially submitted hardship statements from himself and his family members, medical records for his father, a doctor's letter discussing his son's allergies, financial records, family photographs, information on country conditions in India, notarized letters of support from family and community members, and local awards and honors (academic, athletic, and community service) received by the Applicant and his children.

In denying the waiver application, the Director acknowledged the Applicant's submission of family photos, U.S. tax returns and other financial documentation, his children's academic awards, statements of support from family and community members, and information about country conditions and crime in India.<sup>4</sup> The Director also noted the Applicant's father's health conditions, including hypertension,

---

<sup>1</sup> The Director indicated that in the 1990s the Applicant misrepresented his identity and other information in support of his asylum claims and withheld information relating to his previous immigration encounters and removal proceedings.

<sup>2</sup> U.S. citizen children are not identified as qualifying relatives under Section 212(i) of the Act. While the Applicant's two U.S. citizen children are not qualifying relatives for purposes of demonstrating extreme hardship under 212(i) of the Act, the hardship to the Applicant's spouse caused by becoming primarily responsible for their support is a factor for consideration in this case.

<sup>3</sup> The record includes a copy of each child's New York birth certificate identifying the Applicant and his spouse as the parents.

<sup>4</sup> With regard to the information about country conditions and crime in India, the record does not show where Applicant

chest pain, chronic ischemic heart disease, hyperlipidemia, and vitamin deficiency, but indicated that one of the Applicant's two U.S. citizen brothers is listed in their father's medical records as his emergency contact. The Director concluded that the information relating to the Applicant's family ties and business ownership did not demonstrate that his U.S citizen spouse and LPR father would suffer "hardship that is unusual or beyond that which would normally be expected upon" removal or inadmissibility.

With the appeal, the Applicant submits additional hardship statements from himself, his spouse, and their two children. Additionally, the Applicant provides a physician letter indicating that his son "suffers from Atopic Dermatitis, Eczema, and Allergic Rhinitis . . . . He has been treated with different types of steroid creams, lotions, and emollients. He also requires nasal sprays, and allergy medicine to control his allergies." The appellate submission also includes the Applicant's son's patient prescription record listing the medications he received from February 2019 until November 2019. Furthermore, the Applicant presents his and his spouse's 2018 state and federal income tax returns.<sup>5</sup>

In her hardship declaration, the Applicant's spouse states that she has been living with her spouse for 19 years and that he is helpful and supportive to her and their two children. She indicates that their children "need both of their parents here for advice, personal help, and financial struggles." The Applicant's spouse asserts that the Applicant "is working hard to provide the family with everything they need, which is the reason we are living a good life." She explains that they own a business, [REDACTED] and that her spouse is mainly responsible for the business, while she works as a cashier.<sup>6</sup> She further contends that her spouse "goes to warehouses to get supplies and deals with the employees" and that their "business will shut down" without him. The Applicant's spouse also notes that her parents "passed away about 13 years ago" and her "younger sister's husband passed away 10 years ago" and that the Applicant "is the only person who has helped me get out of my sadness and gave me strength."

The Applicant's children's declarations express support for their father and sadness at the prospect of their separation. His daughter indicates that "[t]he thought of living without my father brings me to tears." She explains that her father "provides me everything, ranging from emotional support I need to the necessary financial expenses. . . . He is one who I immediately go to for everything, whether it is a minor inconvenience for a celebratory moment. . . . I am extremely blessed to have such a supporting and loving father." The Applicant's son states that "[t]he thought of me living without my father horrifies me. My father is my role model and inspiration in life. Since the day I was born, he has worked hard to provide for my family and make sure we have everything we want."

In his statement, the Applicant reiterates that he and his wife "own a business in [REDACTED] called [REDACTED] We are both working in the store. I open the store, early in morning. Although we give employment to four people, I am the one who manages all the work by going to multiple

---

and his family would be likely to live in India upon relocation. As such, the Applicant has not shown what kinds of access he and his family would have to employment opportunities or medical care. Similarly, he has not demonstrated the risk to their personal safety.

<sup>5</sup> The 2018 federal income tax return identifies the Applicant's spouse as shareholder of [REDACTED] The tax returns show "total income" of \$57,984 in 2018. An accompanying "Summary of W-2 Statements" indicates that the couple received \$15,876 from [REDACTED] and \$32,760 from [REDACTED]

<sup>6</sup> The record includes an August 2018 letter from "the accountants for [REDACTED]" stating that the Applicant's spouse is "the owner and 50% shareholder" of the corporation and that she "is also an employee."

warehouses to acquire supplies.” He further states: “My wife needs to pick up and drop off my son to school and take care of the house, making it difficult for her to be able to run the business.” Additionally, the Applicant asserts that he provides for his family’s financial needs and handles their expenses. He also contends that he cannot support his family from India “because there is high unemployment and corruption, making it difficult to get a job.”

With regard to his U.S. citizen father, the Applicant asserts that his father “has several health concerns. The doctor is recommending that he has to replace his knee. He cannot walk by himself, which is why I take him on walks in the evening.”<sup>7</sup> The Applicant further states: “Regarding the emergency contact for my father, we put my brother [redacted] because he has the proper legal papers in case anyone asks for status or identification, however I am the one who primarily cares for him.” The record includes affidavits indicating that the Applicant’s father and his two brothers reside together.<sup>8</sup> The evidence, therefore, does not support the Applicant’s claim that he (rather than his brothers) is his father’s primary caregiver.<sup>9</sup> Regarding his father’s health issues, the Applicant has not demonstrated that his brothers and sister would be unable to render assistance to their father, if necessary.

With respect to the Applicant’s son’s allergies and skin conditions, the record indicates that he takes medication for treating his flare ups. The evidence, however, does not show that caring for their son’s health conditions requires extensive involvement from the Applicant’s spouse or that other family members would be unable to assist her in caring for the Applicant’s son, if necessary.

Concerning financial hardship, the record indicates that the Applicant’s spouse co-owns [redacted] [redacted] with her husband and also is shareholder of [redacted]. While the Applicant’s spouse asserts that their [redacted] “business will shut down” without the Applicant and that “[i]t would be impossible for me to handle the business and take care of my children at the same time,” the record does not indicate that her children, ages 19 and 20, require her constant care and attention, thus rendering her unable to manage the business or to seek other employment. The Applicant and his spouse also maintain that without him she would fall short of meeting the family’s household expenses, but the evidence does not show that she would be unable to support herself and their children in the event of their separation. For example, the Applicant has not submitted documentation that provides a complete picture of his and his spouse’s financial situation, including their financial assets such as bank accounts, home and business equity, investments, and the ownership proceeds she receives from [redacted]. Nor has the Applicant demonstrated that his brothers and sister would be unable to render financial assistance to his spouse and children, if necessary.<sup>10</sup> For these reasons, the Applicant has not established that separation from his spouse would cause her to suffer economic detriment that rises to the level of extreme hardship.

Regarding the Applicant’s spouse’s emotional concerns, which primarily include her experiencing depression at the passing of her parents and brother-in-law more than a decade ago, the evidence does

---

<sup>7</sup> The record does not include medical documentation to corroborate the Applicant’s assertion regarding his father’s knee replacement. The Applicant previously submitted a September 12, 2016 medical report for his father from [redacted] Health that includes a “Fall/Harm Risk Assessment” indicating “no” in response to the question: “Does this patient need assistance with standing, walking, or toileting?”

<sup>8</sup> Each of their affidavits lists the same address.

<sup>9</sup> Nor do the Applicant’s tax returns list his father as a dependent.

<sup>10</sup> In addition, the record does not show that the Applicant’s two adult children would be unable to financially assist their mother after completing their education.

not establish the severity or frequency of her depression or how it affects her ability to perform daily tasks, including employment or household responsibilities. Nor does the record indicate that the Applicant's siblings or adult children would be unable to provide emotional support for his spouse, if necessary.

Although we are sympathetic to the Applicant's spouse and father's circumstances, we conclude that if they remain in the United States without the Applicant, the record is insufficient to show that their hardship would rise beyond the common results of removal or inadmissibility to the level of extreme hardship. The Applicant has not demonstrated that separation from his spouse and father would result in emotional, medical, or financial concerns for them that rise to the level of extreme hardship. Even considering all of the evidence in its totality, the record remains insufficient to show that the Applicant's spouse and father's claimed financial, emotional, and medical hardships go beyond the common results of separation from a loved one and rise to the level of extreme hardship if they remain in the United States while the Applicant resides abroad due to his inadmissibility.

The Applicant must establish by a preponderance of the evidence that denial of the waiver application would result in extreme hardship to a qualifying relative both upon separation and relocation. Section 212(a)(9)(B)(v) of the Act; *Chawathe*, 25 I&N Dec. at 375; *see also* 9 *USCIS Policy Manual* B.4(B), (providing, as guidance, the scenarios to consider in making extreme hardship determinations). As the Applicant has not established extreme hardship to his spouse and father in the event of separation, we cannot conclude he has met this requirement.

**ORDER:** The appeal is dismissed.