



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

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

In Re: 20385390

Date: FEB. 16, 2022

Appeal of Nebraska Service Center 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). The Director of the Nebraska Service Center denied the application, concluding that the record did not establish that the Applicant's fiancé, the only qualifying relative, would experience extreme hardship if the waiver was not granted.¹ On appeal, the Applicant provides more evidence of her fiancé's hardship and foreign documents regarding her marital status.

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 (AAO 2010). 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, 8 U.S.C. § 1182(a)(6)(C)(i). There is a discretionary waiver of this inadmissibility if refusal of admission would result in extreme hardship to the United States citizen or lawful permanent resident spouse or parent of the noncitizen. 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).

¹ A U.S. citizen fiancé(e) is a qualifying relative in the case of a K nonimmigrant applicant. 8 C.F.R. § 212.7(a).

II. ANALYSIS

The issue on appeal is whether the Applicant has demonstrated that her fiancé would suffer extreme hardship upon denial of the waiver. Upon review, we conclude that the Applicant has not established extreme hardship to her fiancé.

A. Inadmissibility

However, prior to discussing the extreme hardship issue, we will briefly discuss marital status documents the Applicant has submitted on appeal. The Applicant has submitted several documents from the Ministry of Territorial Administration in Togo that show that she is unmarried and that she is able to marry her U.S. citizen fiancé. We acknowledge that the Applicant is unmarried. However, the Applicant is inadmissible because she has submitted an online visa application which stated that she was married, and misrepresented her marital status.

While the Applicant has claimed that any misrepresentation was not willful because she was not aware of the contents of the online visa application, the Applicant's signature on these applications "establishes a strong presumption" that she knew and assented to the contents. *Matter of Valdez*, 27 I&N Dec. 496, 499 (BIA 2018). Such a presumption can be rebutted through evidence that an applicant was misled and deceived by their representative when preparing the application. *Id.* The Applicant has not submitted evidence to support her claim that she was misled by the individual who prepared the applications, and the record does not establish that she was unaware of the misrepresentations. Accordingly, the Applicant is inadmissible under section 212(a)(6)(C)(i) of the Act for seeking an immigration benefit through fraud or misrepresentation and requires a waiver of inadmissibility.

B. Extreme Hardship

The Applicant must demonstrate that denial of the application would result in extreme hardship to a qualifying relative or relatives, in this case her fiancé. 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 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>. In the present case, the record contains a statement from the Applicant's fiancé but it does not establish whether he intends to remain in the United States or relocate. The Applicant must therefore establish that if she is denied admission, her qualifying relative would experience extreme hardship both upon separation and relocation.

Documentation submitted with the waiver application includes but is not limited to a statement from the Applicant, a statement from the Applicant's fiancé, statements from friends and coworkers, a statement from the Applicant's father, medical records of the Applicant's fiancé, several documents

from the Ministry of Territorial Administration in Togo, a credit card statement from the Applicant's fiancé, the Applicant's 2019 federal tax filing, and medical records of the Applicant's fiancé.

The evidence indicates that the Applicant's fiancé received medical evaluation following a car accident and has dental procedures planned. The Applicant's fiancé also states that he may need eye surgery. The Applicant's fiancé claims that separation from the Applicant would be a hardship because of his medical needs, however the record lacks specificity and detail in terms of how the Applicant would provide support to the Applicant's fiancé to overcome the difficulties of his medical issues.

Concerning financial hardship, while the evidence provided indicates that the Applicant's fiancé has credit card debt roughly one third of his adjusted gross income, the record does not contain any detailed records of the Applicant's expenses to contextualize this information. Further, the Applicant has not included evidence to support the notion that the Applicant's presence in the U.S. would aid the Applicant's fiancé's financial situation. Without a complete picture of his financial situation, we cannot determine the impact of separation upon the Applicant's fiancé.

With respect to emotional hardship, the Applicant's fiancé indicates that separation from the Applicant is incredibly difficult. The Applicant's fiancé notes that he desperately wants to have a child with the Applicant and that it may be difficult to do so without medical intervention. The Applicant's fiancé claims in his statement that he has fallen unconscious in his room alone due to stress and that he fears he may die there, but this contention is not corroborated by medical records. The Applicant's fiancé also expresses fear that due to separation their love may fade. Although we recognize that the Applicant's fiancé may face some hardships upon separation, based on the record, we cannot conclude that when considered in the aggregate, the hardship would go beyond the common results of separation from a loved one and rise to the level of extreme hardship.

The Applicant must establish that denial of the waiver application would result in extreme hardship to a qualifying relative both upon separation and relocation. As the Applicant has not established extreme hardship to her fiancé in the event of separation, we cannot conclude she has met this requirement.

ORDER: The appeal is dismissed.