



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

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

In Re: 19962124

Date: FEB. 17, 2022

Appeal of Los Angeles, California Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of the Philippines, has applied to adjust status to that of a lawful permanent resident 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 willful misrepresentation.

The Director of the Los Angeles Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the Applicant was inadmissible under section 212(a)(6)(C)(i) of the Act for fraud or misrepresentation, and that the record did not establish that her U.S. citizen spouse, the only qualifying relative, would face extreme hardship if the Applicant is unable to remain in the United States. On appeal, the Applicant argues that the Director's decision was erroneous, and submits new evidence for consideration.

In these proceedings, it is the Applicant's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Any foreign national 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. There is a discretionary waiver of this inadmissibility if refusal of admission would result in extreme hardship to the U.S. citizen or lawful permanent resident spouse or parent of the foreign national. 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).¹

II. ANALYSIS

On appeal, the Applicant does not contest the finding of inadmissibility, which is supported by the record.² Thus, the Applicant must establish that denial of the waiver would result in extreme hardship to a qualifying relative or qualifying relatives, in this case her 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. 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>. In the present case, the record is unclear whether the Applicant's spouse would remain in the United States or relocate to the Philippines if the Applicant's waiver application is denied.³ The Applicant must therefore establish that if she is denied admission, her spouse would experience extreme hardship both upon separation and relocation.

With her waiver application, the Applicant submitted a personal statement, statements from friends and family, reports regarding conditions in the Philippines, and a medical health summary for her mother-in-law. The Director concluded that although the spouse's statement indicates the Applicant provides him with emotional support, the documentation submitted did not provide, with specificity, what hardships the spouse would face or support the statements with evidence. On appeal, the Applicant asserts that upon relocation her spouse will experience economic and emotional hardships rising to the level of extreme hardship, and submits an updated personal statement, a psychological evaluation for her spouse, additional medical information for her mother-in-law, a copy of her residential rental agreement, and a copy of her spouse's diploma in support of this assertion.

¹ We note that it appears the Director applied an incorrect standard of proof to the analysis of waiver eligibility. The decision stated that "[i]n order to qualify for an 'extreme hardship' waiver of [the] grounds of inadmissibility, [the Applicant's spouse] must demonstrate with clear and convincing evidence that the applicant's removal from this country would force them to suffer above and beyond what every other United States citizen related to a removable alien would suffer." The standard of proving eligibility for a waiver is a preponderance of the evidence. See *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). However, this error is not determinative in the outcome of the Applicant's case because we have determined that the Applicant did not establish extreme hardship by a preponderance of the evidence.

² The record establishes that in an effort to obtain a nonimmigrant visitor visa to the United States, the Applicant provided false information in her visa applications on two occasions. The record also indicates that the Applicant willfully misrepresented a material fact on her Form I-485, Application to Register Permanent Residence or Adjust Status, and during her adjustment of status interview.

³ Although the Applicant's spouse claims that he would endure extreme hardship upon separation from his wife, the record includes multiple pieces of evidence addressing the hardships he would endure as a result of relocation to the Philippines.

After review of the evidence submitted with the waiver application and on appeal, we will affirm the Director's decision. The current hardship record lacks the specificity and detail needed to make a finding that extreme hardship would result upon relocation.

Regarding emotional hardship, the Applicant submitted a psychological evaluation co-signed by two marriage and family therapists, who evaluated her spouse in August 2019. The report indicates that the Applicant's spouse has "Major Depressive Disorder, Recurrent and Severe without Psychotic Features" and "Generalized Anxiety Disorder," and that his prominent symptoms include sadness and depressed mood, crying spells, irritability, feelings of hopelessness and helplessness, loss of interest, energy and motivation, excessive anxiety and worry, nervousness, restlessness, and difficulty with focus and concentration. The report further indicates that the death of his father from cancer in 2016 contributed to his condition, and that he also has a history of self-harming thoughts and behaviors.

The emotional concerns presented, which primarily include the spouse experiencing depression and anxiety, do not establish the severity or frequency of these conditions or how they affect the spouse's ability to perform daily tasks, including his employment. Although the evaluation diagnosed him with several mental health conditions, the record does not establish the severity of his emotional hardship or the effects on his daily life. Specifically, the evaluation notes that the Applicant should employ "self-relaxation" and "thought stopping" techniques to manage his anxiety. Although the evaluation recommends that the spouse seek outpatient mental health services on a monthly basis, there is no evidence of long-term assessment of the diagnoses or a statement of continuing mental health treatment. There is no indication that the Applicant's spouse requires or has sought therapeutic treatment for "Major Depressive Disorder, Recurrent and Severe without Psychotic Features," "Generalized Anxiety Disorder," or any related mental health conditions or behavioral disorders. Additionally, there is no indication that such treatment is unavailable in the Philippines.

We have carefully reviewed the psychological evaluation and acknowledge the hardships the Applicant's spouse has experienced, and recognize that he may experience additional emotional hardship if he must relocate to the Philippines. However, although the evaluation suggests that the Applicant's spouse is prone to depression and anxiety in stressful situations, the record does not show that the spouse has physical, behavioral, or mental health issues that affect his ability to work or carry out other activities. We are sympathetic to the couple's circumstances and the emotional stress involved, but the record does not show that the spouse's situation, or the symptoms he is experiencing, are atypical compared to others who are facing relocation due to a spouse's inadmissibility.

In his own statement, the Applicant's spouse states that the Applicant "has become the most important person in my life" and that she has helped him mature, and indicates that they want to start a family but are unable to due to the uncertainty of their circumstances. He further states that he and the Applicant currently reside with his mother, who recently lost her job and suffers from several medical conditions including diabetes and hypertension, and that his mother relies on them for emotional and financial support. Were he to relocate abroad, he contends his mother would be devastated and such hardship would cause both her and him extreme emotional and psychological hardship. The record also includes a statement from the Applicant's mother-in-law, who states that the Applicant is a diligent and hard-working person. She states that having the Applicant and her son live with her helps her economically, noting that they assist her with her groceries, cleaning the house, and laundry.

Although the statement from the Applicant's mother-in-law is noted, she is not a qualifying relative for the purpose of this waiver. Any hardship to her must, therefore, be evaluated in terms of its impact on the Applicant's spouse. Here, the Applicant did not sufficiently demonstrate the significance of the hardship of her mother-in-law on her spouse. While we acknowledge the spouse's love and concern for his mother, and acknowledge the difficulties of family separation, the hardship must exceed that which is usual or expected. *Pilch*, 21 I&N Dec. at 630-31 (finding that severing family and community ties were the "common result of deportation" and did not alone constitute extreme hardship). Here, the Applicant acknowledges in her own statement that her mother-in-law "is not incapable of taking care of herself on a daily basis," and the record indicates that her mother-in-law has a daughter and several siblings that reside in the United States and who may offer support.

Regarding financial hardship, the Applicant's spouse claims that he currently is employed as a medical assistant and that he will be unable to find a similar position if he relocates to the Philippines. Specifically, he states that he will be required to receive a certification in order to obtain a similar job, and that his lack of knowledge of Tagalog, a common native language of the Philippines, will further hinder his ability to secure employment. While his assertions are noted, the record does not show that the Applicant's spouse would be unable to earn an income in the Philippines. In addition, despite his assertion that language barriers will hinder his efforts to obtain employment, the Applicant's spouse acknowledges that English is spoken in the Philippines. Moreover, while the Applicant claims that she works with the elderly, the record does not provide a clear picture of what employment opportunities the Applicant has had and, thus, how she may be able to help support herself and her spouse in the Philippines. It has not been established that she would be unable to find employment in the Philippines once she returned.

Finally, the country conditions reports, which concern topics such as crime and safety and human rights, provide generalized information on conditions for residents of the Philippines. The Applicant does not highlight any particular sections in these reports that support the claim that her spouse would be unable to find work in the Philippines or otherwise indicate that relocation would cause undue hardship. While we acknowledge the general overview of crime and safety in these documents, which indicate that there is a "moderate risk" from crime in [] and that traffic conditions in urban areas is "dense, chaotic, and unpredictable," the documentation does not establish that someone in the Applicant's spouse's situation would face financial, medical, or other difficulties or specific threats to their physical safety and security.

After review of the evidence submitted with the waiver application and on appeal, we will affirm the Director's decision. The current hardship record lacks the specificity and detail needed to make a finding that extreme hardship would result upon relocation. Specifically, the emotional concerns presented, which primarily include the spouse experiencing depression and anxiety, do not establish the severity or frequency of the anxiety or how it affects the spouse's ability to perform daily tasks, including his employment. Furthermore, the country conditions documentation does not establish that someone in the spouse's situation would face financial, medical, or other difficulties or specific threats to their physical safety and security. Moreover, the record indicates that the Applicant's spouse has been working in the United States for a healthcare company for approximately 15 years, and it has not been established that he would be unable to find similar employment in the Philippines upon relocation. The Applicant and her spouse indicate that they would like to start a family, and there is no evidence in the record detailing circumstances preventing them from doing so.

The Applicant must establish that denial of the waiver application would result in extreme hardship to her spouse upon both separation and relocation. As the Applicant has not established extreme hardship to her spouse in the event of relocation, we cannot conclude she has met this requirement, and we need not determine whether extreme hardship upon their separation has been established. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.”); *see also Matter of L-A-C-*, 16 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where a petitioner or applicant is otherwise ineligible).”

III. CONCLUSION

Again, as described above, we agree with the Director that the evidence submitted does not provide the detail and specificity necessary to make a finding that the concerns amount to extreme hardship. The evidence in the record, considered both individually and in the aggregate, does not establish that the spouse’s hardships would go beyond the common results of removal and rise to the level of extreme hardship.

As such, no purpose would be served in determining whether the Applicant merits a waiver as a matter of discretion. The Applicant has the burden of proving that he is eligible for a waiver of inadmissibility. Section 291 of the Act, 8 U.S.C. § 1361. The Applicant has not met this burden. The Director’s decision will be affirmed.

ORDER: The appeal is dismissed.