



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

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

In Re: 20293067

Date: FEB. 28, 2022

Appeal of San Bernardino, California, Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant¹ seeks to adjust status to that of a lawful permanent resident, based on an approved Form I-130, Petition for Alien Relative, that her U.S. citizen daughter filed on her behalf. She also filed an Application for Waiver of Grounds of Inadmissibility, Form I-601, seeking a waiver of inadmissibility for fraud or misrepresentation under Section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i). *See also* Section 212(a)(6)(C)(i) of the Act.

The Director of the San Bernardino, California, Field Office denied the Form I-601 waiver application, concluding that the Applicant did not demonstrate that denial of the waiver would result in extreme hardship to her U.S. lawful permanent resident father, her sole qualifying relative for the waiver application. *See* Section 212(i)(1) of the Act. On appeal, the Applicant submits additional documentation and contends that she has established the requisite hardship.

In these proceedings, it is the Applicant's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361; *see also 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

To be eligible for a waiver of inadmissibility for fraud or misrepresentation under Section 212(a)(6)(C)(i) of the Act, an applicant must demonstrate that denial of the waiver would result in extreme hardship to his or her U.S. citizen or lawful permanent resident spouse or parent. Section 212(i)(1) of the Act. A determination of whether denial of the waiver would 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). 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

¹ While the Applicant claims to be represented by an attorney, on appeal, she has not submitted a new, properly executed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative. As explained in our October 25, 2021, correspondence, which was sent to both the Applicant and the individual she identified as her attorney, we consider the Applicant to be self-represented, because the record lacks a new, properly executed Form G-28.

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). Moreover, 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).

In addition, if the applicant demonstrates the existence of the required hardship, then he or she must also establish that U.S. Citizenship and Immigration Services (USCIS) should favorably exercise its discretion and grant the waiver application. *See* Section 212(i)(1) of the Act.

II. ANALYSIS

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/policy-manual/volume-9-part-b-chapter-4> (providing, as guidance, the scenarios to consider in making extreme hardship determinations). In this case, the record does not contain a statement from the Applicant’s father specifically indicating whether he intends to remain in the United States or relocate with the Applicant to Mexico, if her Form I-601 waiver application were denied. The Applicant must therefore establish that if she were denied the waiver, her father would experience extreme hardship both upon separation and relocation.

In support of her Form I-601 waiver application, the Applicant has submitted evidence, including letters from her, her father, and other family members; medical documents concerning her father; and financial documents concerning her family. These materials include an April 2021 letter from the Applicant’s father’s doctor, stating that he suffers from hypertension, diabetes, back pain, bilateral shoulder pain, bilateral knee pain and anemia. The letter notes that he “needs [the Applicant] to help him ambulate, feed himself, dress himself, take a shower, and take his [medication].” The record also includes a December 2020 psychological evaluation report, indicating that the Applicant father’s, who was then 86 years old, experienced “depression; anxiety attacks; problems sleeping; loss of appetite; inability to focus or concentrate; extreme worries; fearful of his future; uncertainty; often emotional extreme nervousness; difficulty making decisions; loss of interest in things that used to interest him in the past; isolation; heart pounding; [and] hypersensitivity.” The psychological examiner concluded in the report that he “meets the criteria for Anxiety Disorder and Major Depression,” and recommended that he “continue[s] with therapy, with normal daily activities; engaging in family activities; visit with friends; and incorporate an exercise program to help him with his anxiety.”

In addition to medical documents, the Applicant has provided evidence relating to her family financially supporting her father. For example, documents confirm that her father, who is a widower, lives with her, her spouse, and her children. Her and her spouse’s tax filings show that they have claimed her father as a dependent on their tax forms for multiple years. The Applicant’s father’s December 2020 psychological evaluation report provides that he has retired and depends on the Applicant for financial support. Other evidence in the record, including letters from family members, substantiates the Applicant’s claim that her father lives with her and depends on her family financially.

In his April 2021 letter, the Applicant's father states that the Applicant is his best friend. He provides that she helps him get ready for the day, helps him get dressed and take a bath, prepares his meals, makes sure that he takes his medications, and takes him to doctor appointments. He also indicates that he has his own room in the Applicant's house, which his other children would not be able to offer him if he lived with them. He states that he has a close relationship with not only the Applicant, but also her children.

The record includes letters from the Applicant's family members. They indicate that the Applicant's father lives with the Applicant's family and relies on them for financial support. In addition, according to an April 2021 letter from the Applicant's sister, [REDACTED] she cannot care for the Applicant's father "the way my sister does" because "our income is low" and she has other financial obligations. Similarly, according to an April 2021 letter from the Applicant's brother, [REDACTED] "my debt and new medical bills could never allow me" to "provide even half of what [the Applicant] does for [their father]." The Applicant's other siblings, [REDACTED] [REDACTED] [REDACTED] who live in Mexico, also indicated in their letters that they cannot care for their father.

The evidence that the Applicant has presented is insufficient to establish the requisite hardship. Specifically, she has not shown that the adverse effects on her father from the denial of her Form I-601 waiver application are greater than what is expected or that they rise to the level of extreme hardship. *See Pilch*, 21 I&N Dec. at 630-31. The record confirms the Applicant's father's health issues, and the letter from his doctor indicates that he requires daily assistance.² The evidence, however, is insufficient to show that an individual other than the Applicant could not help him in the Applicant's absence. The Applicant acknowledges that her father lives with her, her spouse, and their three children, including one adult child.³ According to an April 2021 letter from the Applicant's adult child, [REDACTED] [REDACTED], she "help[s] out [the Applicant] taking care of [the Applicant's father]." On page 3 of her appellate brief, the Applicant indicates that her other child, born in 2001, "oftentimes assists [the Applicant] in caring for [her father] or giving him company." Page 5 of the December 2020 psychological evaluation report states that the Applicant's father "has an excellent support system here in the United States" and he "has made the United States his home and has his adult children, grandchildren, extended family and friends here." The Applicant has not established that her family members, including her spouse and her adult child, who live with her father, could not care for him in her absence.

Additionally, while the Applicant indicates that she financially supports her father, she has not sufficiently demonstrated that others in her family could not support him in her absence. The evidence reveals that her spouse and her adult child are gainfully employed and they contribute to the household, which includes the Applicant's father. Page 3 of the Applicant's appellate brief states that her other child, born in 2001, also works part-time. The Applicant states that she is self-employed and operates a "mobile upholstery service." According to her 2020 tax filing, however, her business suffered a loss of approximately \$10,000. Similarly, her 2019 tax filing shows that her business suffered a business loss of approximately \$4,500. This information does not support a claim that in 2020 or 2019, her

² According to the Applicant's April 2021 letter, her father's checkups occur less frequently than before, he "only do[es] checkups every four to six months," because he "was able to recuperate after having cancer."

³ The December 2020 psychological evaluation report also indicates that the Applicant's father lives with the Applicant's niece.

earnings financially supported her father. Rather, it appears that earnings from her family members, including earnings from her spouse, supported her father. The documentation in the record, including materials concerning the Applicant's family's financial situation, is insufficient to support a finding that her father would experience extreme hardship upon the denial of her Form I-601 waiver application.

We acknowledge that the Applicant's father would likely experience hardship upon separation from the Applicant, the record, however, fails to show the hardship exceeds that which is usual or expected. *See Pilch*, 21 I&N Dec. at 630-31. As noted, factors such as economic detriment, severing family and community ties, loss of current employment, and cultural readjustment are the "common result of deportation" and do not alone constitute extreme hardship. *See id.* While we recognize that the Applicant's father may be negatively affected upon separation from the Applicant, based on the record, we cannot conclude that when considered in the aggregate, that hardship goes beyond the common results of separation from a loved one or that it rises to the level of extreme hardship. *See* Section 212(i)(1) of the Act.

The Applicant must establish by a preponderance of the evidence that denial of her Form I-601 waiver application would result in extreme hardship to a qualifying relative both upon separation and relocation. Section 212(i)(1) of the Act; *Chawathe*, 25 I&N Dec. at 375; *see also* 9 *USCIS Policy Manual*, *supra*, at B.4(B). As the Applicant has not established extreme hardship to her father in the event of separation, we cannot conclude she has met this requirement, and we need not consider hardship to her father in the event of relocation to Mexico. Additionally, based on our finding, we need not determine if the Applicant merits a waiver as a matter of discretion. Based on these reasons, we will dismiss her appeal.

III. CONCLUSION

The evidence before us, when considered in the aggregate, fails to establish by a preponderance of the evidence that denial of the Applicant's Form I-601 waiver application would result in extreme hardship to her lawful permanent resident father. *See* Section 212(i) of the Act; *see also* Section 212(a)(6)(C)(i) of the Act. Accordingly, her waiver application remains denied.

ORDER: The appeal is dismissed.