



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

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

In Re: 21783976

Date: JULY 8, 2022

Motion on Administrative Appeals Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant has applied for an immigrant visa and seeks 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). The Director of the Nebraska Service Center denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the Applicant did not establish that her qualifying relative would experience extreme hardship upon continued separation from the Applicant. In a subsequent appeal, the Applicant contested her inadmissibility and reasserted that she had established eligibility for the waiver. We dismissed the appeal, concurring with the finding of inadmissibility for fraud or misrepresentation and determining that the Applicant did not establish, as required, that denial of admission would result in extreme hardship to her qualifying relative. The matter is now before us on a motion to reopen and reconsider. Upon review, the motion is dismissed.

I. LAW

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. *Id.* § 103.5(a)(3). We may grant a motion that satisfies these requirements and establishes eligibility for the benefit sought.

Any noncitizen who, by fraud or willfully misrepresenting a material fact, seeks to procure admission into the United States is inadmissible. Section 212(a)(6)(C)(i) of the Act. There is a 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 noncitizen. If the noncitizen demonstrates the existence of the required hardship, then they must also show they merit a favorable exercise of discretion. 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

We incorporate our prior decision by reference and will repeat only certain facts as necessary here. The Applicant is a native of Cameroon and a resident of the Netherlands. The Applicant's mother, a U.S. citizen and asylee, departed Cameroon in 2001, and left the Applicant in the care of relatives. In our prior decision, we acknowledged the Applicant's statements and the statements in a psychological assessment regarding the difficulties that separation from the Applicant has caused her mother.¹ However, we found that the Applicant did not address specific points raised by the Director regarding the lack of sufficient evidence relating to the impact of her mother's psychological issues on her daily life. We further noted that the Applicant did not address the Director's finding regarding the lack of documentation supporting the Applicant's mother's financial hardship claim.

On motion, the Applicant asserts that our prior decision raised "derogatory issues" regarding her case, and she was not given the opportunity to address them prior to the dismissal of her appeal. The derogatory issues referenced by the Applicant relate to a 2005 fraud determination, made by the Department of State's (DOS) consular office in Cameroon, in connection with six asylee relative petitions filed by the Applicant's mother on behalf of the Applicant and five individuals identified as the Applicant's siblings.² She argues that the fraud determination should not be applicable to her because she was a child as defined by section 101(b)(1) of the Act.³ As we stated in our prior decision, because the Applicant is outside the United States seeking an immigrant visa, the DOS makes the final determination concerning admissibility and eligibility for a visa, not U.S. Citizenship and Immigration Services. As such, the matter before us is limited to a review of the denial of the waiver application.

On motion, the Applicant also submits an updated statement from her mother and documentation regarding her mother's financial support to her. In her statement, the Applicant's mother contends that we disregarded the fact that she was forced to leave Cameroon and her children due to dangerous conditions as well as the emotional difficulties that she has experienced due to separation from her children. She reiterates that she is a hospice nurse and maintains that she struggles each day from continued separation from her children. She also states that she has sent over \$3,000 per month throughout the years to support the Applicant, who is preparing to be a nurse, and her son who is

¹ In the psychological assessment, relating to four interviews of the Applicant's mother totaling 7.7 clinical hours, the psychologist concluded that the Applicant's mother "appears to be suffering from major depressive disorder and anxiety-based problems, most likely associated with the heartbreak of several failed attempts to have her children close to her." The psychologist further noted that "if this last attempt to help her children, now grown to adulthood themselves, immigrate to the U.S. fails, she will suffer permanent emotional damage and may even give up on wanting to live, as she came close to doing," previously.

² In 2006, U.S. Citizenship and Immigration Services revoked the asylee relative petitions filed on behalf of the Applicant as well as the individuals named as her siblings.

³ Section 101(b)(1) of the Act provides, in pertinent part, that a child is defined as an unmarried person under 21 years of age.

pursuing a master's degree in physical therapy. She claims that if her children were with her, they could obtain employment and assist her financially, which would allow her to work fewer hours as she ages.

While we recognize that continued separation from the Applicant may negatively affect the Applicant's mother's emotional well-being, the record continues to lack documentation that provides the detail and specificity necessary to make a finding that the impact of the Applicant's mother's emotional and psychological difficulties amount to extreme hardship. With respect to financial hardship, while the record now contains documentation indicating that the Applicant's mother sends money to her children, the record does not demonstrate that the Applicant, who is 35-years old, is unable to seek and obtain employment in order to support herself – particularly in light of the fact that the record reflects that from August 2019 to July 2021, the Applicant was enrolled in a vocational course in the Netherlands for qualification as a “service employee,” and as stated by her mother, the Applicant is preparing to be a nurse. Further, the Applicant's mother has a yearly income of \$160,000, and the record does not demonstrate that her decision to financially support her adult children impacts her ability to afford her primary expenses. For these reasons, we find that the submitted documentation is insufficient to establish the claim of extreme hardship upon continued separation.

Based on the foregoing, the Applicant has not overcome our prior decision dismissing her appeal of the Director's denial. As the Applicant has not submitted new evidence sufficient to establish eligibility for a waiver of inadmissibility, she has not met the requirements for a motion to reopen. Furthermore, the Applicant has not established that our prior decision was based on an incorrect application of law or policy. Therefore, she has not met the requirements for a motion to reconsider.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.