



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

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

In Re: 21763406

Date: JUL. 11, 2022

Appeal of Queens, New York Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of Bangladesh, 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 misrepresentation. The Director of the Queens, New York Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the Applicant did not fulfill the regulatory requirements of identifying a ground of inadmissibility to be waived and articulating the incidents and events that rendered her inadmissible. The matter is now before us on appeal. On appeal, the Applicant submits evidence and a brief asserting her eligibility. 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 remand the matter to the Director for the entry of a new decision.

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 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 foreign national. If the foreign national demonstrates the existence of the required hardship, then they must also show that U.S. Citizenship and Immigration Services (USCIS) should favorably exercise its discretion and grant the waiver. Section 212(i) of the Act.

An applicant for an immigrant visa, adjustment of status, or a K or V nonimmigrant visa who is inadmissible under any provision of section 212(a) of the Act for which a waiver is available under section 212 of the Act may apply for the related waiver by filing the form designated by USCIS, with the fee prescribed in 8 C.F.R. § 106.2, and in accordance with the form instructions. 8 C.F.R. § 212.7(a)(1).

A provisional unlawful presence waiver granted according to paragraph (e) of 8 C.F.R. § 212.7 is valid subject to the terms and conditions as specified in paragraph (e) of this section. In any other case, approval of an immigrant waiver of inadmissibility under this section applies only to the grounds of

inadmissibility, and the related crimes, events, or incidents that are specified in the application for waiver. 8 C.F.R. § 212.7(a)(4).

The burden of proof is on an applicant to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The Applicant filed a waiver application in which she checked the box in Part 4, Section A, providing that she sought to procure an immigration benefit by fraud or willful misrepresentation. In Part 4, Section C, where asked to provide a full explanation of the acts, etc. that made her inadmissible, the Applicant wrote “Please see the attached memorandum and supporting affidavit.” The Applicant submitted a memorandum of law, a psychological evaluation, medical letters for her U.S. citizen spouse, her statement, her spouse’s statement, and several legal documents. The Director determined that after reviewing the Applicant’s memorandum and supporting documents, she did not address the misrepresentations made on her nonimmigrant visa application and during her consular interview. Specifically, the Director noted that the Applicant claimed she was married in a June 2014 nonimmigrant visa application when she was actually divorced. The Director concluded that USCIS is unable to waive the Applicant’s ground of inadmissibility, as she did not identify a ground of inadmissibility to be waived and articulate the incidents and events that rendered her inadmissible, as required under 8 C.F.R. § 212.7(a).

On appeal, the Applicant asserts that in page one of her statement she described how she was regretful for stating that she was married in 2014 when she was actually divorced, and notes that her memorandum discussed her visa application listing her as married when she was actually divorced. However, the Applicant’s statement was missing page one when she submitted it, although her memorandum referenced her visa application listing her as married when she was actually divorced. On appeal, the Applicant has submitted page one of her statement, which references her visa application listing her as married when she was actually divorced.

As the Applicant has identified the ground of inadmissibility and articulated the incident that rendered her inadmissible, we will remand her waiver application for the Director to determine whether she merits a waiver under section 212(i) of the Act.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.