



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

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

In Re: 12769275

Date: JUN. 14, 2022

Appeal of Norfolk, Virginia Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of Pakistan, 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).

The Director of the Nebraska Service Center denied the waiver application, concluding that the Applicant had not established that his qualifying relative spouse would suffer extreme hardship if the Form I-601 is denied. The matter is now before us on appeal. The Applicant submits a brief but no additional evidence of hardship to the qualifying relative. He argues that the Director failed to properly weigh and consider the evidence he already submitted. The Applicant does not contest the finding that he is inadmissible.

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 available 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.

While we acknowledge the hardship the Applicant claims his spouse will suffer if he is removed from the United States, we need not reach this issue. In April 2020, the Director denied the Form I-130, Petition for Alien Relative, that the Applicant's spouse had filed on his behalf. Among the reasons for denial, the Director explained that the Applicant is subject to Section 204(c) of the Act for previously entering into a marriage for the purpose of evading immigration laws. In May 2020, the Applicant appealed the denial of his Form I-130, which was pending at the Board of Immigration Appeals (Board) at the time he filed the instant Form I-601 appeal. Since the filing of the instant appeal, the Board has dismissed the Applicant's appeal and affirmed the Director's decision to deny the Form I-130.

The Applicant is not eligible to apply for a waiver because USCIS denied the underlying Form I-130, upon which an immigrant visa would be based. The viability of the Form I-601 is dependent upon the Form I-130. In the absence of an underlying Form I-130, no purpose would be served in adjudicating

the Form I-601 at this time. Without an underlying, approved petition, the record does not establish the Applicant's status as an immediate relative and thus the immediate availability of an immigrant visa to him. Because the Applicant is not immediately eligible to apply for admission to the United States, our review of his eligibility for the requested waiver serves no purpose. We therefore dismiss the appeal as moot.

ORDER: The appeal is dismissed.