



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

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

In Re: 22745084

Date: OCT. 26, 2022

Appeal of Long Island, New York Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant has applied to adjust status to that of a lawful permanent resident (LPR) and seeks a waiver of inadmissibility under the Immigration and Nationality Act (the Act) section 212(i), 8 U.S.C. § 1182(i). The Director of the Long Island, New York Field Office, denied the application, concluding that the Applicant did not establish extreme hardship to her qualifying relatives, if the waiver is denied. On appeal, the Applicant asserts that the Director failed to consider all of the hardship factors and failed to provide any analysis in the denial. The Applicant asserts that she has met her burden of demonstrating that her qualifying relatives will suffer extreme hardship and that she merits a waiver as a matter of discretion.¹

The Applicant bears the burden of proof to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon our de novo review, we will remand the matter to the Director for further proceedings.

I. LAW

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 waiver of this inadmissibility if refusal of admission would result in extreme hardship to the U.S. citizen or LPR spouse or parent of the noncitizen. If the noncitizen demonstrates the existence of the required hardship, then they must also show that U.S. Citizenship and Immigration Services should favorably exercise its discretion and grant the waiver. 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

¹ The record indicates that the Applicant filed an adjustment application based on an approved visa petition filed by her U.S. citizen son.

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).

II. ANALYSIS

Upon review of the record in its totality, we will remand the matter to the Director for further review and issuance of a new decision.

On appeal, the Applicant does not contest her inadmissibility under Section 212(a)(6)(C)(i) of the Act for fraud and willful misrepresentation. However, the Applicant contends that the Director did not sufficiently explain why the evidence did not establish extreme hardship and failed to consider all the evidence she presented.

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 the applicant’s evidence demonstrates 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>. Here, the Applicant states that her LPR parents, the qualifying relatives in this case, will suffer extreme hardship “whether or not they relocate to China.” The Applicant must therefore establish that if she is denied admission, her parents would experience extreme hardship upon both relocation and separation.

The regulation at 8 C.F.R. § 103.3(a)(1)(i) states that when denying an application or petition, the Director shall explain in writing the specific reasons for denial. Upon review, we conclude that the Director’s decision does not provide sufficient analysis explaining why the evidence does not demonstrate extreme hardship to the Applicant’s parents. While the Director acknowledged the hardship factors presented by the Applicant, the Director concluded, without any analysis, the evidence failed to demonstrate that the Applicant’s parents would suffer extreme hardship if she were removed from the United States. When denying an application, the Director must fully explain the reasons in order to allow the Applicant a fair opportunity to contest the decision and provide the AAO an opportunity for meaningful appellate review. Cf. *Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that the reasons for denying a motion must be clear to allow the affected party a meaningful opportunity to challenge the determination on appeal). Here, the Director did not explain why the evidence in the record did not demonstrate extreme hardship.

Accordingly, we will withdraw the Director’s decision and remand the matter to the Director to properly consider and discuss all relevant evidence including the evidence submitted on appeal for extreme hardship. Upon remand, the Director may request any additional evidence considered

pertinent to the new determination and any other issue to determine in the first instance if the Applicant has established extreme hardship to her parents and merits a favorable exercise of discretion.

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