



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

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

In Re: 21925084

Date: SEP. 13, 2022

Appeal of Washington Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of Bolivia, has applied to adjust status to that of a lawful permanent resident (LPR) and 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 willful misrepresentation. The Director of the Washington Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the record did not establish that the Applicant's U.S. citizen spouse, the only qualifying relative, would experience extreme hardship if the waiver was not granted. On appeal, the Applicant argues that the Director's decision failed to consider the totality of the evidence provided. 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 dismiss the appeal.

**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 discretionary 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. 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, the burden of proof is on the 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 does not dispute that he is inadmissible, a determination supported by the record.<sup>1</sup> The issue on appeal is whether the Applicant has demonstrated his U.S. citizen spouse would suffer extreme hardship upon denial of the waiver application.

The Applicant must demonstrate that denial of the application would result in extreme hardship to a qualifying relative or relatives, in this case his U.S. citizen spouse. 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 scenarios is not required if an applicant's evidence establishes 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. See 9 USCIS Policy Manual B.4(B), <https://www.uscis.gov/policymanual> (discussing, as guidance, establishing hardship upon separation and relocation). Here, the record contains a statement from the Applicant's spouse indicating that she would not relocate to Bolivia. Therefore, the Applicant must establish extreme hardship based upon separation.

On appeal, the Applicant argues that the Director did not consider the totality of circumstances but instead weighed the emotional hardships and financial hardships separately. He also argues that he has established that his spouse would experience extreme hardship when all the factors are considered cumulatively. At the outset, a review of the decision reflects that the Director correctly stated that the discretionary determination would be based on a totality of the relevant evidence in the individual case. Moreover, the Applicant has not submitted documentation to establish, by a preponderance of the evidence, that his spouse would endure extreme hardship.

Documentation submitted with the waiver application includes but is not limited to an affidavit from the Applicant's spouse, statements from the Applicant's relatives and friends, photographs of the Applicant with his spouse, other relatives, and various individuals, bank statements, utility bills, tax transcripts, uncertified copies of tax returns, country condition reports for Bolivia, and a residential lease. The Applicant contends that his spouse would experience extreme financial and emotional hardship upon separation.

Regarding emotional hardship, the Applicant states his spouse, a native of Bolivia, has resided in the United States since she was a teenager, and has lived here for over 30 years. She became a naturalized citizen over 15 years ago. He states that he fulfills the role of a grandfather to his spouse's two grandchildren. As for family ties, the Applicant's spouse states that she would be emotionally devastated from the separation, and that as her third husband, she has finally found in him a true-life partner after years of dysfunctional relationships. The Applicant notes that his spouse would be

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<sup>1</sup> The Director determined that the Applicant misrepresented his family composition to show that he had strong familial ties to Bolivia and was therefore qualified for a B-1/B-2 visa.

heartbroken to leave her adult daughter and her grandchildren to essentially start over in a now completely unfamiliar environment. He notes that his spouse's mother and six siblings are all U.S. citizens residing here. She has no family in Bolivia and would experience stress and anxiety if she were to separate from her entire family to be solely with her spouse. The Applicant states that his spouse is worried about the future psychological impact of abandoning her family to live with him when he can never return to the United States. However, she does not have any significant physical health concerns for herself.

While the record does not contain an evaluation of her emotional or psychological state, we do acknowledge that the Applicant's spouse is worried about the future psychological impact of separation on her daily life. However, the record reflects that she has extensive family ties in the United States and the record does not contain evidence that these family members could not provide emotional or other support in the Applicant's absence. The Applicant also states that the negative social and cultural impact on his spouse includes her unlikely prospects of employment as a woman in her fifties because there is employment discrimination against women in Bolivia. Moreover, she lacks community and family ties in Bolivia having spent 30 years in the United States and would be forced to abandon her cleaning business, where she has established professional relationships and goodwill.

Concerning financial hardship, at the outset we note that the evidence in the record reflects that the Applicant did not suffer a decrease in wages and the Director erred in determining otherwise. Nonetheless, the Applicant has not established that his spouse would suffer extreme financial hardship even considering this error. The Applicant argues that his spouse would not be able to pay the mortgages on their two properties.<sup>2</sup> The Applicant notes that the mortgage payments represent 79% of his spouse's income, and that they live paycheck to paycheck. The Applicant further notes that there is widespread poverty in Bolivia and that there are no comparable salaries. While we acknowledge the financial strain a separation may cause, the Applicant and his spouse purchased a second home and voluntarily assumed the responsibility of paying two mortgages. Moreover, the record reflects that the Applicant had lost his job at the time he filed the waiver, and he has not submitted evidence that he has since become employed. Thus, he has not submitted evidence that he is currently contributing to the household finances such that separation would cause more hardship to the family. We also note that the record also does not demonstrate that the Applicant's spouse's six siblings, adult daughter, and mother would be unable to financially assist her in the Applicant's absence.

In the end, although we recognize that the Applicant's spouse may face some emotional and financial hardships upon separation. However, based on the record, the Applicant has not established by a preponderance of the evidence that such hardship, when considered in the aggregate, would go beyond the commons results of separation from a loved one and rise to the level of extreme hardship.<sup>3</sup>

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<sup>2</sup> We note that the Applicant's spouse owns a house which she purchased before marrying the Applicant and collects rent from this property which she uses to pay most of the mortgage. Together, the Applicant and his spouse are paying the mortgage on a second property, a townhouse which they purchased in September 2020, during the COVID-19 pandemic. The principal balance on the second property at the time of filing the waiver was \$353,647.00.

<sup>3</sup> We note the submission of the Department of State Travel Warnings, human rights reports and crime and safety reports due to generalized violence, the potential for civil unrest and the COVID-19 pandemic in Bolivia. However, since the Applicant's spouse has indicated that she will not relocate to Bolivia, we need not take administrative notice of the travel warnings and reports.

The Applicant must establish by a preponderance of the evidence that denial of the waiver application would result in extreme hardship to a qualifying relative both upon separation and relocation. Chawathe, 25 I&N Dec. at 375; see also 9 USCIS Policy Manual B.4(B), (providing, as guidance, the scenarios to consider in making extreme hardship determinations). As the Applicant has not demonstrated extreme hardship to his U.S. citizen spouse, we need not consider whether he warrants a waiver in the exercise of discretion.

ORDER:      The appeal is dismissed.