



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

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

In Re: 26211762

Date: APR. 27, 2023

Appeal of Fort Meyers, Florida Field Office Decision

Form I-601, Application for Waiver of Grounds of Inadmissibility

The Applicant has 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 Fort Myers, Florida Field Office denied the application, finding that the Applicant had not established that his U.S. citizen spouse, the only qualifying relative, would suffer extreme hardship upon his removal from the United States. On appeal, the Applicant submits a brief and contends that he has established that his spouse will experience extreme hardship if he is denied admission.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review 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, as explained below, we will remand the matter to the Director for the entry of a new decision.

A 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. There is a discretionary 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 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).

The Applicant, a native and citizen of Haiti, was found inadmissible under section 212(a)(6)(C)(i) of the Act, for fraud or willful misrepresentation. The Applicant does not contest inadmissibility on appeal. Thus, the Applicant must seek a waiver of this inadmissibility. The issues on appeal therefore are whether the Applicant has established extreme hardship to a qualifying relative and if so, whether he merits a favorable exercise of discretion.

In the decision to deny the waiver application, the Director determined, in part, that while the Applicant's spouse had stated that she would experience extreme hardship were she exposed to violence, poor country conditions, and human rights violations in Haiti, said claims had no effect on her if she chose to remain in the United States while the Applicant relocated abroad due to his inadmissibility. On appeal, the Applicant states that the situation in Haiti is extremely dangerous and thus, his family cannot relocate to Haiti with him. Alternatively, if the Applicant were to relocate to Haiti while his U.S. citizen spouse and children remained in the United States, they would not be able to visit him; he explains that the U.S. Department of State has warned U.S. citizens of the dangers of traveling to Haiti.¹ Thus, he contends that if he were to return without his family, he would not be able to see them for years, thereby causing his family emotional and psychological harm.

Considering the assertions on appeal regarding the problematic country conditions in Haiti and their impact on the Applicant's qualifying relative, we find it appropriate to remand the matter for the Director to determine if the Applicant has established extreme hardship to a qualifying relative. If the Director finds the Applicant has established extreme hardship to his U.S. citizen spouse, then the Director must consider whether the Applicant 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.

¹ The December 1, 2022 travel advisory from the U.S. Department of State details that U.S. citizens "do not travel" to Haiti, due to "kidnapping, crime, and civil unrest" and furthermore, "U.S. citizens should depart Haiti now in light of the current security and health situation and infrastructure challenges."
<https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/haiti-travel-advisory.html>