



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

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

In Re: 29647758

Date: DEC. 21, 2023

Appeal of Chicago, Illinois Field Office Decision

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

The Applicant, a native and citizen of Palestine, seeks to adjust status to that of a lawful permanent resident (LPR), which requires him to demonstrate, inter alia, that he is admissible to the United States or eligible for a waiver of inadmissibility. Section 245(a)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255(a)(2). He was found inadmissible for fraud or willful misrepresentation under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), and he seeks a discretionary waiver of inadmissibility under section 212(i) of the Act.

The Director of the Chicago, Illinois Field Office, denied the waiver request, concluding that the evidence did not establish the requisite extreme hardship to the Applicant's only qualifying relative, his U.S. citizen spouse, if the Applicant is refused admission. This matter is now before us on appeal, which we review de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). On appeal, he submits additional documents and maintains that his spouse would suffer financial and emotional hardships amounting to extreme hardship if he is denied admission.¹ Upon de novo review, we will remand the matter to the Director for the entry of a new decision.

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. This inadmissibility ground may be waived if refusal of admission would result in extreme hardship to the U.S. citizen or lawful permanent resident spouse or parent of the noncitizen. Section 212(i) of the Act. If the noncitizen establishes the requisite extreme hardship, they must also demonstrate that their waiver request warrants a favorable exercise of discretion. *Id.* The Applicant has the burden of proof to establish eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

Whether a 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). While some degree of hardship to qualifying relatives is present in most cases, the hardship must exceed that which is usual or expected for it to be considered "extreme." *See, e.g., Matter of Pilch*, 21 I&N Dec. 627, 630-31 (BIA 1996) (finding that factors such as economic detriment, severing

¹ The Applicant did not submit his appeal brief to us as he indicated on his Form I-290B, Notice of Appeal or Motion.

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).

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. See 9 USCIS Policy Manual B.4(B), <https://www.uscis.gov/policymanual> (providing guidance on the scenarios to consider in making extreme hardship determinations). Establishing extreme hardship under both these scenarios is not required if the evidence shows that one of these scenarios would result from the denial of the waiver. See *id.* (citing to *Matter of Calderon-Hernandez*, 25 I&N Dec. 885 (BIA 2012) and *Matter of Gonzalez Recinas*, 23 I&N Dec. 467 (BIA 2002)). 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 *id.* Here, the Applicant’s U.S. citizen spouse indicated in her statement to the Director and her updated statement on appeal that she intends to remain in the United States if the waiver request is denied. The Applicant must therefore establish that if he is denied admission, his spouse would experience extreme hardship upon separation.

The only issue before us is whether the Applicant has established extreme hardship to his U.S. citizen spouse if the section 212(i) waiver request is denied.² The record reflects that the Director considered the evidence submitted below, comprising the couple’s statements, their marriage certificate, a copy of their U.S. citizen child’s birth certificate, the spouse’s birth certificate, statements from her mother and sister, and a 2018 lease contract.

The Applicant and his spouse have been married since 2018. They have a four-year-old U.S. citizen daughter; and in her updated statement, the spouse indicated that she was three months pregnant. The record shows that the Applicant, who is the family’s only income earner, remained here since his last entry in 2016, and the family resides near [REDACTED]. The spouse asserts that she and her child rely on the Applicant’s financial and emotional support, and that separation would significantly worsen her family’s wellbeing. She further avers that if the Applicant returns to Palestine, visiting him there would be extremely difficult and dangerous, in large part due to restrictions imposed on foreigners, lack of access to healthcare, and ongoing civil unrest and tension in the region. Based on the foregoing, the spouse asserts that she would experience extreme hardship if the waiver request is denied.

On appeal, the Applicant submits additional documents in support of the claimed extreme hardship, including the spouse’s updated statement, their daughter’s medical documents, and updated statements from the spouse’s mother and sister. The Applicant avers that the record before us establishes that his spouse would suffer extreme hardship upon separation if the waiver request is denied and the Applicant is deported to Palestine. We also take notice of publicly available new information regarding changes in country conditions in Palestine that developed subsequent to the filing of the appeal, which supports the spouse’s concerns as to her and her family’s safety in or near Palestine. This includes information indicating that the conditions there have drastically deteriorated since October 2023 due to the recent Israel-Hamas conflict severely affecting the safety and livelihood of

² The Applicant admits, and the record shows, that he is inadmissible for fraud or willful misrepresentation for having fraudulently obtained a B-2 nonimmigrant visa and entered this country using this visa, which was later revoked for fraud.

people in the region—including unprecedented number of displaced or killed individuals, and limited or no access to health infrastructures and other basic necessities such as water, food, shelter, and electricity. Specifically, current U.S. Department of State’s Travel Advisory on Israel, the West Bank and Gaza, similarly support the couple’s claim of unusual hardship and safety risk associated with U.S. citizens traveling to the region. *See generally* U.S. Department of State, Israel, the West Bank, and Gaza Travel Advisory, <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/israel-west-bank-and-gaza-travel-advisory.html> (last visited Dec. 21, 2023) (warning against travel to Gaza due to terrorism and armed conflict); *see also* Emma Graham-Harrison and Julian Borger, The Guardian, Dec. 19, 2023, *Palestinian death toll in Gaza nears 20,000 with nearly 2 million people displaced*, <https://www.theguardian.com/world/2023/dec/19/palestinian-casualties-in-gaza-near-20000-with-nearly-2m-people-displaced> (last accessed Dec. 21, 2023); Lauren Leatherby, N.Y. Times, Nov. 25, 2023, *Gaza Civilians, Under Israeli Barrage, Are Being Killed at Historic Pace*, <https://www.nytimes.com/2023/11/25/world/middleeast/israel-gaza-death-toll.html> (last accessed Dec. 21, 2023); Isabel Debre, Associate Press, Nov. 11, 2023, *Hospitals have special protection under the rules of war. Why are they in the crosshairs in Gaza?*, <https://apnews.com/article/israel-hamas-war-gaza-hospitals-be55b16dd18e55be1b8ad395163ca19b> (last accessed Dec. 21, 2023).

Accordingly, we will remand the matter to the Director to consider in the first instance the new evidence on appeal, including evidence of changed country conditions, in assessing whether they are sufficient to satisfy the Applicant’s burden to establish the requisite extreme hardship for purposes of eligibility for a section 212(i) waiver of inadmissibility.

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