



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

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

In Re: 24605352

Date: FEB. 23, 2023

Appeal of Lawrence, Massachusetts 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 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 Lawrence, Massachusetts Field Office denied the application, concluding that the record did not establish that denial of admission as a lawful permanent resident would result in extreme hardship to the Applicant's qualifying relatives, as required for a waiver under section 212(i) of the Act. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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, we will withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

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 Director denied the application stating that the Applicant did not submit a personal statement or statements from any family members supporting the claim of extreme hardship and that the remaining supporting documentation was insufficient for the Applicant to meet her burden to establish extreme hardship to her qualifying relatives. On appeal, the Applicant asserts, in part, that the Director did not consider all the relevant evidence submitted in support of her claim of extreme hardship, including her personal statement and the statements from family members in the record.

Contrary to the Director's finding, the record establishes that the Applicant submitted a personal statement and statements from all three of her qualifying relatives as well as further affidavits from her children and extended family attesting to her importance within the family and how the family would be affected if she were removed from the United States, which the Director does not appear to have considered. These statements directly address the concerns raised in the decision of the Director and are therefore material to the outcome. On appeal, the Applicant also submits a new affidavit from her spouse discussing his recent stroke and resulting inability to work, after visit summaries for recent medical appointments for her parents, and medical bills showing the potential cost of her husband's treatment. We conclude the new evidence submitted on appeal is material to the decision of the Director because it is directly linked to the claimed medical and financial hardship that would affect the Applicant's qualifying relatives if she were denied admission. We thus remand the matter for the Director to consider the referenced evidence in the first instance in determining if the Applicant has established the requisite extreme hardship and has otherwise demonstrated eligibility for a waiver under section 212(i) of the Act.

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