



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

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

In Re: 25213350

Date: MAR. 10, 2023

Appeal of Santa Ana, California Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, who has requested to adjust his status in the United States to that of a lawful permanent resident, seeks a waiver of inadmissibility for fraud or misrepresentation under section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i). U.S. Citizenship and Immigration Services (USCIS) may grant this waiver as a matter of discretion if refusal of admission would result in extreme hardship to a qualifying relative or qualifying relatives.

The Director of the Santa Ana, California Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the Applicant had not established extreme hardship to his U.S. citizen mother or to his U.S. citizen father, his qualifying relatives, and that a favorable exercise of discretion was warranted in granting this waiver. 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 dismiss the appeal.

**I. LAW**

Section 212(a)(6)(C)(i) of the Act renders inadmissible 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, admission into the United States, or other benefit provided under the Act. As stated, this inadmissibility may be waived 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). While some degree of hardship to qualifying relatives is present in most cases, 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).

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. Establishing 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/policy-manual>. In this case, the record does not contain a clear statement from the Applicant’s mother or his father indicating whether they intend to remain in the United States or relocate to the Philippines (the Applicant’s native country) if the waiver application is not granted. The Applicant must therefore establish that if he is denied admission, his U.S. citizen mother or his U.S. citizen father would experience extreme hardship both upon separation and relocation.

Once the requisite extreme hardship is established, the noncitizen must show that USCIS should favorably exercise its discretion and grant the waiver. Section 212(i) of the Act.

## II. ANALYSIS

The Director determined that the Applicant was inadmissible under section 212(a)(6)(C)(i) of the Act because he previously sought admission to the United States using his brother’s passport and U.S. visitor visa. The Applicant does not contest this determination, and it is supported by the record.<sup>1</sup> The issue on appeal is whether the Applicant has established that his U.S. citizen mother or his U.S. citizen father, his qualifying relatives, will experience extreme hardship if the inadmissibility is not waived, and if so, whether a waiver is warranted in the exercise of discretion.

In determining that the Applicant had not established extreme hardship to his qualifying relatives, the Director concluded that the record was insufficient to demonstrate that, in the aggregate, his father would suffer financial or medical hardship, or that his mother would suffer medical hardship, that would be unique or atypical, rising to the level of extreme.

On appeal, the Applicant asserts that the Director did not properly consider or weigh all of the evidence in the record relating to his parents’ medical difficulties and that the Director minimized his mother’s health challenges.<sup>2</sup> In support of his argument, the Applicant submits a letter confirming that his

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<sup>1</sup> The record reflects, and the Applicant has testified, that in 2000 he applied for admission to enter the United States as a temporary visitor for pleasure by presenting a visitor visa and a Philippine passport, both of which were issued to his brother.

<sup>2</sup> The Applicant does not contest the Director’s determination regarding financial hardship to his U.S. citizen father on appeal. We therefore deem the issue waived and do not address it in our decision. *See Rizk v. Holder*, 629 F.3d 1083, 1091 n.3 (9th Cir. 2011) (finding that issues not raised in a brief are deemed waived); *see also Martinez-Serrano v. INS*, 94 F.3d 1256, 1259 (9th Cir. 1996) (finding that an issue referred to in an affected party’s statement of the case but not discussed in the body of the brief is deemed waived);

mother currently resides at a nursing facility, as well as additional medical records for his mother. In the record below, the Applicant's mother states that she has chronic kidney disease and hypertension, but that she takes medication to control it.<sup>3</sup> She also states that she lives alone in a senior community. The Applicant also provided his mother's medical records below regarding a December 2019 medical visit, explaining that in December 2019 his mother spent three days in the hospital for an infection, after which she required more assistance. In his statement below, the Applicant recounts that after this hospital visit, he began providing increased assistance, such as doing her laundry on a weekly basis, visiting her more frequently, and bringing her meals more often than he had been. We note that these records also reflect that as of December 2019 the Applicant's mother lived alone and was active. The medical records submitted on appeal reflect that in 2021 the Applicant's sister brought his mother to the emergency room after a fall, but that she was not admitted to the hospital. These records further show that in 2022 his mother was treated in the hospital for colitis and was discharged three days later.

While we sympathize with the Applicant's mother's health difficulties, there is no indication in the record that she relies solely upon the Applicant to assist her with medical care. As the Applicant indicates in his statement in the record below, a nurse visits his mother at her residence once a week to provide medical care. In addition, the March 2022 letter submitted on appeal confirms that his mother resides in an assisted living facility. Further, the medical evaluations submitted on appeal reflect that the Applicant's sister is a caretaker for his mother and is consulted by medical personnel to confirm his mother's medical history and medications. Additionally, as the Applicant's father explains in a statement below, the Applicant's other siblings reside in California. There is no indication that they are unable or unwilling to assist her should the Applicant be denied admission.

The Applicant also contends on appeal that the Director's decision failed to consider the cumulative impact of his mother's emotional and medical hardships when determining that the Applicant had not established extreme hardship to his mother. He argues on appeal that it is critical to his mother's health that she have her family members around her; he additionally asserts on appeal that the trauma of his departure would exacerbate her medical conditions. The Applicant explains on appeal that his mother was traumatized by the death of his brother in 2015 and that she would suffer emotional harm upon separation because she would be losing another son. While we are sympathetic to the impact that the Applicant's departure to the Philippines might have upon his mother, he offers no evidence on appeal, and the record below contains insufficient documentation, to demonstrate that his mother's medical conditions would worsen or to show that his mother would suffer emotional harm if he were denied admission to the United States. Accordingly, the record remains insufficient to show that the Applicant's mother's medical and emotional hardships, in the aggregate, would go beyond the common results of removal or inadmissibility and rise to the level of extreme in the event of separation.

On appeal, the Applicant asserts that his father also will experience medical hardship and explains that his father is aging, is beginning to experience memory loss, and is finding it more difficult to get around. The Applicant's father made similar statements in the record below. The Applicant does not offer evidence to establish these medical issues or to otherwise show how these issues will be impacted by this separation from his father. The record is therefore insufficient to demonstrate that the medical hardships his father would experience if the Applicant were to be denied admission exceed that which are the common results of removal or inadmissibility.

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<sup>3</sup> The record includes correspondence from her physician confirming this.

The Applicant finally contends on appeal that the Director did not consider the impact that separation would have upon family unity. He argues that neither his mother or father would be able to travel to see him in the Philippines due to their medical conditions, and that accordingly his separation from his parents would be permanent. He contends that the Director erred in not considering the impact of this permanent separation upon his parents, as his mother would “lose another son.” However, the record is insufficient to establish that his parents would be unable to travel to visit him in the Philippines or otherwise to show that this separation would be permanent, as the Applicant asserts. Further, the Applicant does not submit additional evidence to demonstrate or explain the harm to his parents in the event of a permanent separation. We are therefore unable to assess the impact of this separation either singularly, or in the aggregate with the hardships described above, to determine that the hardship his U.S. citizen mother or his U.S. citizen father would experience rises to the level of extreme.

As the Applicant has not established extreme hardship to his U.S. citizen mother or to his U.S. citizen father in the event of separation, we cannot conclude he has met the requirement that denial of the waiver application would result in extreme hardship to his qualifying relatives upon both separation and relocation. In addition, because the Applicant has not demonstrated extreme hardship to his qualifying relatives if he is denied admission to the United States, we need not consider whether he merits a waiver in the exercise of discretion. The waiver application will remain denied.

**ORDER:** The appeal is dismissed.