



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

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

In Re: 25775067

Date: MAY 04, 2023

Appeal of Nebraska Service Center Decision

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

The Applicant has applied for an immigrant visa and has been found inadmissible for fraud or misrepresentation and seeks a waiver of that inadmissibility. The Director of the Nebraska Service Center denied the application, concluding that the record did not establish that he was eligible to apply for a waiver on Form I-601 because his Form I-130, Petition for Alien Relative, was previously revoked. Absent an approved or pending Form I-130, the Applicant could not establish he is within a class of individuals eligible to apply for a waiver. The matter is now before us on appeal. 8 C.F.R. § 103.3. The Applicant argues he is eligible for a waiver because his U.S. citizen parents will suffer extreme hardship if he is denied admission to the United States.

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.

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 United States citizen or lawful permanent resident spouse or parent of the noncitizen. Section 212(i) of the Act.

The Applicant has a lengthy history of entries and seeking immigration benefits in the United States. Most relevant to his appeal before us, he previously entered the United States and married a U.S. citizen in [redacted] 2001. His spouse filed a Form I-130 on the Applicant's behalf, and that petition was later revoked upon admission by both the spouse and the Applicant that the marriage was entered into for the purpose of evading the immigration laws. As a result, he is inadmissible under section 212(a)(6)(C)(i) of the Act for seeking an immigration benefit through fraud or misrepresentation and requires a waiver of inadmissibility.

In July 2016, the Applicant's U.S. citizen son filed a Form I-130 on behalf of the Applicant, which was approved in March 2017. That petition was subsequently revoked in January 2022, following the

issuance of a notice of intent to revoke that afforded the Applicant an opportunity to submit additional evidence to overcome revocation. The Applicant responded to the notice, submitting a notice of representation and evidence of his pending Form I-601. However, the Director found the submission did not address the reason for the notice, specifically the prior finding that the Applicant entered into a fraudulent marriage for the purpose of obtaining an immigration benefit. Therefore, the Form I-130 was revoked. *See* Section 204(c) of the Act (prohibiting approval of future petitions for noncitizens previously found to have entered into a marriage for the purpose of evading the immigration laws of the United States). Records do not indicate a new Form I-130 has since been filed.

The Applicant has no approved Form I-130, and his prior pending immigrant visa application was thus refused. To be eligible to receive a waiver through a Form I-601, the applicant must first be “an applicant for an immigrant, K, or V nonimmigrant visa [. . .], or . . . an applicant for adjustment of status to lawful permanent residence,” excluding certain identified categories. *See* Form I-601 Instructions, at 1; 9 *USCIS Policy Manual* A.4(A), <https://www.uscis.gov/policy-manual>. In this case, the Applicant has not established he is within any of these categories; thus, he is not eligible to apply for a waiver on Form I-601, as the Director concluded. As such, the Director did not reach the merits of the Applicant’s Form I-601 or consider whether it should be granted as a matter of discretion. Therefore, we likewise will not reach those questions and dismiss his appeal.

**ORDER:** The appeal is dismissed.