



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

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

In Re: 15869709

Date: FEB. 16, 2022

Appeal of Nebraska Service Center Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant,¹ a native and citizen of Colombia currently residing in Colombia, has applied for an immigrant visa. A foreign national seeking to be admitted to the United States as an immigrant or to adjust status must be “admissible” or receive a waiver of inadmissibility.

The U.S. Department of State (DOS) found the Applicant inadmissible for a crime involving moral turpitude, section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I);² multiple criminal convictions, section 212(a)(2)(B) of the Act, 8 U.S.C. § 1182(a)(2)(B);³ falsely claiming U.S. citizenship, section 212(a)(6)(C)(ii) of the Act, 8 U.S.C. § 1182(a)(6)(C)(ii);⁴ and unlawful presence, section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II).⁵

The Applicant applied for a waiver of the unlawful presence ground of inadmissibility under section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(v), based on asserted hardship to his U.S. citizen spouse. To obtain a waiver of the section 212(a)(9)(B) unlawful presence ground of inadmissibility, an applicant must establish that: (1) refusing them admission to the United States would result in extreme hardship to their U.S. citizen or lawful permanent resident spouse or parent; and (2) if the applicant demonstrates the requisite extreme hardship to a qualifying relative, then the applicant must also show that USCIS should favorably exercise its discretion and grant the waiver. Section 212(a)(9)(B)(v) of the Act. Further, in the waiver application, the Applicant asserted that he is not inadmissible for making a false claim to U.S. citizenship under section 212(a)(6)(C)(ii) of the Act because he did not

¹ We note that an attorney attempted to file a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, in this case. However, the form was improperly executed. We therefore consider him self-represented. 8 C.F.R. § 292.4(a).

² Section 212(a)(2)(A)(i)(I) of the Act renders inadmissible any noncitizen convicted of, or who admits to having committed acts which constitute the essential elements of, a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime.

³ Section 212(a)(2)(B) of the Act provides that any noncitizen convicted of two or more crimes (other than purely political offenses) for which the aggregate sentences amount to confinement of five years or more is inadmissible.

⁴ Section 212(a)(6)(C)(ii)(I) of the Act provides that a noncitizen who, on or after September 30, 1996, falsely represents, or has falsely represented, themselves to be a U.S. citizen for any purpose or benefit under the Act or any other Federal or State law is inadmissible.

⁵ Section 212(a)(9)(B)(i)(II) of the Act provides that a noncitizen who has been unlawfully present in the United States for one year or more is inadmissible for ten years from the date of their departure from the United States.

make the claim for any purpose or benefit under the law. The Applicant did not address his inadmissibility for a crime involving moral turpitude or for multiple criminal convictions in the waiver application.

The Director of the Nebraska Service Center denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that because there is no waiver for inadmissibility under section 212(a)(6)(C)(ii) of the Act, the waiver application could not be approved. The matter is now before us on appeal.

On appeal, the Applicant again asserts that he is not inadmissible for making a false claim to U.S. citizenship, and that he qualifies for waiver of the unlawful presence ground of inadmissibility based on asserted hardship to his U.S. citizen spouse. Further, on appeal, the Applicant notes the DOS' determination that he committed a crime of moral turpitude, but he does not further address this ground of inadmissibility. The Applicant does not address his inadmissibility for multiple criminal convictions on appeal.

In these proceedings, it is the Applicant's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

Because the Applicant is residing abroad and applying for an immigrant visa, the DOS makes the final determination concerning admissibility. In December 2017, a consular officer determined that the Applicant is inadmissible for a crime involving moral turpitude, multiple criminal convictions, falsely claiming U.S. citizenship, and unlawful presence. The Applicant has not overcome these DOS determinations on appeal. Thus, we affirm the Director's decision, and the application will remain denied.

ORDER: The appeal is dismissed.