



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

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

In Re: 17858078

Date: SEPT. 14, 2022

Appeal of New York District Office (Queens 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 Applicant also seeks a waiver of inadmissibility under section 212(a)(9)(C)(iii) of the Act, 8 U.S.C. § 1182(a)(9)(C)(iii), for having entered the United States without inspection after having been removed from the United States.

The Director of the New York District Office (Queens Field Office) determined that although the Applicant had indicated that she is the beneficiary of an approved self-petition under the Violence Against Women Act (VAWA) and was eligible for a waiver of inadmissibility for her removal and subsequent entry without inspection if she could establish a connection between the abuse and said actions, she had not submitted “any evidence in support of waiving this ground.” Thus, the Director concluded that no purpose would be served in reviewing the Applicant’s request for a waiver of inadmissibility for her fraud or willful misrepresentation. The application was denied accordingly.

On appeal, the Applicant contends that the Director erred in denying the waiver application because despite the Director’s finding to the contrary, she did submit documentation in support of her waiver application, in response to the Director’s March 2020 Request for Evidence.

The Applicant bears the burden of proof to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361. This office reviews the questions in this matter *de novo*. See *Matter of Christo’s Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, as explained below, we will remand the matter to the Director for the entry of a new decision.

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, or in the case of a VAWA self-petitioner, the noncitizen demonstrates extreme hardship to the noncitizen or the noncitizen’s United States citizen, lawful permanent resident, or qualified noncitizen parent or child. Section 212(i) of the Act.

Section 212(a)(9)(C) of the Act, 8 U.S.C. § 1182(a)(9)(C), provides that any noncitizen who has been unlawfully present in the United States for an aggregate period of more than 1 year, or has been ordered removed, and who enters or attempts to reenter the United States without being admitted, is inadmissible. Inadmissibility pursuant to section 212(a)(9)(C)(i) of the Act may be waived pursuant to section 212(a)(9)(C)(iii) for VAWA self-petitioners if there is a connection between the noncitizen's battery or subjection to extreme cruelty and the noncitizen's removal, departure from the United States, reentry or reentries into the United States, or attempted reentry into the United States.

Contrary to the Director's finding, the record establishes that the Applicant submitted documentation in support of her request for a waiver of inadmissibility, including an affidavit from the Applicant, immigration and biographic documentation, a psychological evaluation, medical documentation, evidence of the Applicant's family ties in the United States, employment and financial documentation, and articles about country conditions in the Applicant's native country. We thus find it appropriate to remand the matter for the Director to determine in the first instance if the Applicant has established eligibility for the benefit sought. The Director may request any additional evidence considered pertinent to the new determination and any other issues. As such, we express no opinion regarding the ultimate resolution of this case on remand.

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