



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

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

In Re: 28680897

Date: NOV. 16, 2023

Appeal of Newark, New Jersey 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).

The Director of the Newark, New Jersey Field Office denied the application, finding that the Applicant had not established that his U.S. citizen spouse, the only qualifying relative, would suffer extreme hardship upon his removal from the United States. The matter is now before us on appeal. 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. To establish eligibility for a waiver of this inadmissibility the noncitizen must demonstrate, as a threshold requirement, that denial of admission will result in extreme hardship to their U.S. citizen or lawful permanent resident spouse, or parent. 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).

In addition to demonstrating the requisite extreme hardship, the applicant must also show that USCIS should favorably exercise its discretion and grant the waiver. Section 212(i) of the Act.

The Applicant, a native and citizen of Guyana, was found inadmissible under section 212(a)(6)(C)(i) of the Act, for fraud or willful misrepresentation. The Applicant does not contest inadmissibility on appeal. Thus, the Applicant must seek a waiver of this inadmissibility. The issues on appeal therefore are whether the Applicant has established extreme hardship to a qualifying relative and if so, whether he merits a favorable exercise of discretion. We have considered all the evidence in the record and conclude that the claimed hardships to the Applicant's spouse do not rise to the level of extreme hardship when considered both individually and cumulatively.

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. *See generally* 9 *USCIS Policy Manual* B.4(B), <https://www.uscis.gov/policy-manual> (providing guidance on the scenarios to consider in making extreme hardship determinations). Demonstrating extreme hardship under both of these scenarios is not required if an applicant's evidence establishes that one of these scenarios would result from the denial of the waiver. *See id.* (citing to *Matter of Calderon-Hernandez*, 25 I&N Dec. 885 (BIA 2012) and *Matter of Gonzalez Recinas*, 23 I&N Dec. 467 (BIA 2002)). The applicant may meet this burden by submitting a statement from the qualifying relative or relatives certifying under penalty of perjury that the qualifying relative or relatives would relocate with the applicant, or would remain in the United States, if the applicant is denied admission. *See id.* Here, the record does not contain a clear statement from the Applicant's spouse indicating whether she intends to remain in the United States or relocate with the Applicant to Guyana if the waiver application is denied. The Applicant must therefore establish that if he is denied admission, his spouse would experience extreme hardship both upon separation and relocation.

The Applicant's spouse asserts that she will experience emotional and financial hardship were she to remain in the United States while the Applicant relocates abroad. She states that she has been married to the Applicant since [] 2014 and a prolonged separation from him would cause her hardship. The Applicant's spouse also maintains that she would not be able to visit her spouse in Guyana because it would be cost prohibitive and she is worried her children would get sick there, as has happened in past visits. The Applicant's spouse also contends that while she is employed, she relies on her husband's income and she cannot support the family on her own.

We adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F3d 5, 8 (1st Cir. 1996) (joining eight U.S. Courts of Appeals in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case.)).

On appeal, the Applicant has not established that his spouse's hardships that would result from their separation, considered individually and cumulatively, would go beyond the common results of inadmissibility or removal and rise to the level of extreme hardship. The spouse's affidavit indicates generally that the Applicant is emotionally supportive of her, but the record does not establish that separation from the Applicant would affect her ability to function in her daily life and meet her work

and family responsibilities. The mental health evaluation from March 2021 offers little detail to convey the degree of emotional hardship the spouse would experience in the Applicant's absence. Nor has the Applicant submitted documentation on appeal from her spouse's treating physician detailing her current medical and/or mental health conditions, the treatment plan, and what hardships she would experience were the Applicant specifically to relocate abroad. We note that the record establishes the Applicant's spouse has a support network in the United States, including her parents; the Applicant has not established that they would not be able to provide support to his spouse as needed. As for the Applicant's spouse's concerns about her well-being and safety in Guyana were she to travel there to visit the Applicant, the mental health evaluation in the record states that she was born and raised in Guyana; she did not come to the United States until she was an adult. The record does not establish what hardships, if any, she experienced in Guyana prior to coming to the United States, to support the assertion that she would experience hardship upon return to her native country to visit the Applicant.

As for the financial hardship referenced, the record does not establish the Applicant's and his spouse's current income, expenses, assets, and liabilities, to establish the household's complete financial picture. The Applicant has also not submitted any documentation to establish that he specifically will not be able to support himself in Guyana. Nor has the Applicant established that his spouse's parents are unable to assist his spouse financially as needed. While we acknowledge that the Applicant's spouse may experience some financial hardship during the Applicant's absence, the Applicant has not established on appeal that separation would affect her spouse's current ability to meet her financial responsibilities to such an extent that it would cause her extreme hardship.

The evidence in the record is insufficient to establish that the spouse's hardships, considered individually and cumulatively, would go beyond the common results of inadmissibility or removal and rise to the level of extreme hardship due to separation from the Applicant. As the Applicant has not established that his spouse would experience extreme hardship, no purpose would be served in determining whether the Applicant merits a waiver as a matter of discretion.

ORDER: The appeal is dismissed.