



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

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

In Re: 21819305

Date: SEP. 07, 2022

Appeal of San Francisco Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a citizen of Taiwan, has applied to adjust status to that of a lawful permanent resident and seeks a waiver of inadmissibility under section 212(h) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i) and section 212(h) of the Act, 8 U.S.C. § 1182(h).

The Director of the San Francisco, California Field Office denied the application, concluding that the record did not establish, as required, that denial of admission would result in extreme hardship to the Applicant's qualifying relative.

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 has not met this burden.

I. LAW

Any noncitizen who is coming to the United States solely, principally, or incidentally to engage in prostitution, or has engaged in prostitution within 10 years of the date of application for a visa, admission, or adjustment of status, is inadmissible. Section 212(a)(2)(D)(i) of the Act.

Noncitizens found inadmissible under section 212(a)(2)(D) of the Act for engaging in prostitution may seek a discretionary waiver of inadmissibility under section 212(h) of the Act. A waiver is available if admission to the United States would not be contrary to the national welfare, safety, or security of the United States, and the foreign national has been rehabilitated. Section 212(h)(1)(A) of the Act. A waiver is also available if denial of admission would result in extreme hardship to a United States citizen or lawful permanent resident spouse, parent, son, or daughter. Section 212(h)(1)(B) of the Act. If the noncitizen demonstrates the existence of the required hardship, then they must also show they merit a favorable exercise of discretion. *Id.*

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 these proceedings, it is the applicant’s burden to establish by a preponderance of the evidence eligibility for the requested benefit. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The issue on appeal is whether the Applicant’s qualifying relative would experience extreme hardship if the waiver is denied. The Applicant does not contest the finding of inadmissibility for prostitution, which is established in the record. We have considered all the evidence in the record and conclude that it does not establish that the claimed hardships rise to the level of extreme hardship when considered both individually and cumulatively.

The Applicant must demonstrate that denial of the application would result in extreme hardship to a qualifying relative or qualifying relatives, in this case her U.S. citizen spouse. 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. 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. 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/policymanual>. In the present case, the Applicant’s spouse asserts that he would not relocate to Taiwan with the Applicant if her waiver application is denied. The Applicant must therefore establish that if he is denied admission, her spouse would experience extreme hardship upon separation.

The Director acknowledged the evidence in the record of the Applicant’s spouse’s medical conditions, specifically a prostate condition and severe back pain. However, the Director determined that the Applicant had not sufficiently explained how her presence or assistance alleviated her spouse’s conditions such that their separation would result in extreme hardship. Turning to claims of psychological hardship, the Director also acknowledged the submitted psychological evaluation indicating the spouse’s symptoms of depression, anxiety, and panic disorder as well as support letters regarding the care the Applicant provides her spouse, but concluded that the Applicant had not established that this hardship would go beyond the usual results of separation due to inadmissibility.

On appeal, the Applicant submits a brief and contends that she has established the requisite extreme hardship to her spouse. She argues that her spouse’s physical and mental health conditions require treatment and her assistance in the activities of daily living, according to the letter from the spouse’s doctor submitted below. In support of these arguments regarding the spouse’s physical health, the Applicant states that her spouse’s statement in the record detailed that assistance and care she provided him for a prostate operation in 2019. She further claims that her spouse’s statement indicated that she

cooks for the spouse, monitors his diet, carries heavy items, and cleans up the house, among other tasks. Turning to the spouse's mental health, the Applicant asserts that the Director ignored the spouse's conditions documented in the psychological evaluations.

Upon review of the record in full, we agree with the Director that the submitted documentation is insufficient to corroborate the claim of extreme hardship upon separation. With respect to medical hardship, although the Applicant's spouse asserts that relies on the Applicant for assistance with daily tasks, the medical documentation in the record does not explain specifically what tasks the Applicant must perform in order to ameliorate the spouse's medical conditions. While we acknowledge the spouse's statements that the Applicant cared for him after an operation in 2019 and that she accompanies him on work travel to care for him, the submitted evidence lacks other specific and recent details about what kind of daily or ongoing assistance without which the spouse would experience extreme medical hardship.

With respect to psychological hardship, the psychological evaluation in the record diagnosed the spouse major depressive disorder, generalized anxiety disorder, panic disorder, and past alcohol use disorder. Although we acknowledge the spouse's mental health diagnoses and the documentation indicating that his symptoms have increased with the Applicant's immigration uncertainty, the Applicant has not shown that she provides specific assistance or support for these conditions without which the spouse would experience extreme hardship aside from general emotional support that would be expected between spouses. Further, although the evaluation included recommended self-care practices and professional mental health intervention for the spouse and indicated that he planned to pursue these recommendations, the record does not contain further information about whether the spouse has pursued such treatment to cope with exacerbated symptoms due to separation from his spouse.

We are sympathetic to the spouse's medical and mental health conditions and acknowledge the statements from the couple regarding the supportive and positive role the Applicant plays in his life. However, based on the record, we cannot conclude that, when considered in the aggregate, any medical and psychological hardships the Applicant's spouse would experience upon separation from the Applicant would go beyond the common results of inadmissibility or removal and rise to the level of extreme hardship. As the Applicant has not demonstrated that denial of the application would result in extreme hardship to a qualifying relative, no purpose would be served in determining whether the Applicant merits a waiver as a matter of discretion.

As the Applicant has not established extreme hardship to her qualifying relative in the event of separation, the waiver application will remain denied.

ORDER: The appeal is dismissed.