



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

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

In Re: 25334927

Date: MAR. 28, 2023

Appeal of Washington 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 Director of the Washington Field Office in Fairfax, Virginia denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the record did not establish that the Applicant's U.S. citizen spouse, his only qualifying relative, would experience extreme hardship if the waiver was not granted. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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

The Applicant has filed a Form I-485, Application to Register Permanent Residence or Adjust Status (adjustment application), which the Director denied, finding that the Applicant did not establish eligibility to adjust status on the basis that he was not admitted or paroled into the United States. Because the present waiver application cannot cure this ineligibility, the adjustment application would remain denied notwithstanding a decision to grant the waiver. A waiver application serves the purpose of removing the inadmissibility bar to adjustment of status. 8 C.F.R. § 212.7(a)(1). As that purpose cannot be served in this case, the waiver application is properly denied in the exercise of discretion.

ORDER: The appeal is dismissed.