



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

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

In Re: 26529784

Date: OCT. 5, 2023

Appeal of Philadelphia, Pennsylvania Field Office Decision

Form I-601, Application for Waiver of Grounds of Inadmissibility

The Applicant, a native and citizen of Côte d'Ivoire, has applied to adjust status to that of a lawful permanent resident (LPR). A noncitizen 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 Applicant has been found inadmissible for fraud or misrepresentation and seeks a waiver of that inadmissibility.¹

See Immigration and Nationality Act (the Act) section 212(i), 8 U.S.C. § 1182(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver if refusal of admission would result in extreme hardship to a qualifying relative or qualifying relatives.

The Director of the Philadelphia, Pennsylvania Field Office denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (waiver application), concluding that absent evidence to support the waiver, the Applicant did not establish extreme hardship to his qualifying relative. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Applicant argues that the Director did not consider the evidence submitted in support of the waiver.

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 remand the matter to the Director for further proceedings.

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. This ground of inadmissibility may be waived as a matter of discretion if refusal of admission would result in extreme hardship to the United States citizen or lawful permanent resident spouse or parent of the noncitizen. Section 212(i) of the Act.

In denying the waiver application, the Director acknowledged the Applicant's U.S. citizen wife is the qualifying relative who would experience extreme hardship if the Applicant were not admitted. However, upon review of the decision and as the Applicant correctly asserts, the Director did not analyze or consider all the evidence of hardship submitted in support of the waiver.

¹ The Applicant does not contest the inadmissibility determination.

As it relates to extreme hardship evidence, the Applicant submitted into the record before the Director a declaration from his U.S. citizen spouse detailing the hardship she would endure, financial records, birth certificates of his two U.S. citizen children, medical records from the qualifying spouse and country condition documentation. The decision does not reflect that the Director reviewed or considered this evidence.² As such, we will withdraw the Director's decision and remand the matter for consideration of all the evidence in the first instance and the issuance of a new decision on the waiver application.

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

² After the Director denied the waiver application, the Applicant sent an email requesting reconsideration of the decision and argued that he had submitted evidence pertaining to hardship. In an email response to the Applicant's request, the Director again asserted that the Applicant did not provide any evidence to establish extreme hardship to the U.S. citizen spouse.