



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

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

In Re: 27420429

Date: SEP. 06, 2023

Appeal of Long Island, New York Field Office Decision

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

The Applicant, a native and citizen of South Korea, 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 misrepresentation. The Director of the Long Island, New York Field Office denied the application, concluding that the record did not establish that the Applicant did not fulfill the regulatory requirements of identifying a ground of inadmissibility to be waived and articulating the incidents and events that rendered her inadmissible. 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 foreign national 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 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 foreign national. If the foreign national demonstrates the existence of the required hardship, then they must also show that U.S. Citizenship and Immigration Services (USCIS) should favorably exercise its discretion and grant the waiver. Section 212(i) of the Act.

An applicant for an immigrant visa, adjustment of status, or a K or V nonimmigrant visa who is inadmissible under any provision of section 212(a) of the Act for which a waiver is available under section 212 of the Act may apply for the related waiver by filing the form designated by USCIS, with the fee prescribed in 8 C.F.R. § 106.2, and in accordance with the form instructions. 8 C.F.R. § 212.7(a)(1).

A provisional unlawful presence waiver granted according to paragraph (e) of 8 C.F.R. § 212.7 is valid subject to the terms and conditions as specified in paragraph (e) of this section. In any other case, approval of an immigrant waiver of inadmissibility under this section applies only to the grounds of

inadmissibility, and the related crimes, events, or incidents that are specified in the application for a waiver. 8 C.F.R. § 212.7(a)(4).

The Applicant sought a waiver, through the filing of a Form I-601, Application for Waiver of Grounds of Inadmissibility, of her inadmissibility under section 212(a)(6)(C)(i) of the Act for fraud or willful misrepresentation of a material fact to procure an immigration benefit. As noted above, the Director denied the Applicant's Form I-601 because she failed to fulfill the regulatory requirements of stating the specific incidents and events that rendered her inadmissible. 8 C.F.R. § 212.7(a)(4). The Form I-601 instructions also explain this requirement that an applicant for a waiver of inadmissibility describe the reasons they are inadmissible, including the specific incidents and events that led to the inadmissibility. As discussed in the Director's decision, the Applicant's statement in her Form I-601 was that the school she enrolled in was under an investigation. No further details were provided nor did the Applicant state any specific incidents or events that rendered her inadmissible for fraud or willful misrepresentation of a material fact to procure an immigration benefit. Her statement lacked sufficient information as to any fraud or misrepresentation she committed to obtain an immigration benefit – she did not identify the benefit she procured through the fraud or willful misrepresentation. Although the Applicant submitted a written statement in support of her waiver application, in response to the issuance of a request for evidence prior to the Director's denial, that statement does not mention her inadmissibility or the events leading to it.

In her brief on appeal, the Applicant, through counsel, argues because the Director included a summary of the basis for her inadmissibility, the regulatory requirement was met. Counsel further states that the Applicant “enrolled in various schools which were found to be in violation of USCIS regulations as the applicant did not physically attend them [sic] nor take [sic] courses that she was supposed to be attending.” However, Counsel's unsubstantiated assertions do not constitute evidence. *See, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) (“statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight”). The Applicant has not provided sufficient explanation of the incidents and events that rendered her inadmissible to meet the regulatory requirements of 8 C.F.R. § 212.7(a)(4). As the Applicant has not articulated the incident that rendered her inadmissible, we will dismiss her appeal, and her waiver application remains denied.

ORDER: The appeal is dismissed.