



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

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

In Re: 15919467

Date: MAY 10, 2022

Appeal of Phoenix, Arizona Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of Mexico currently residing in the United States, 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 under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i). The Applicant seeks a waiver of that inadmissibility under section 212(i) of the Act, 8 U.S.C. § 1182(i). Additionally, the Applicant has been found inadmissible for unlawful presence under section 212(a)(9)(B)(i)(I) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(I). The Applicant seeks a waiver of that inadmissibility under section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v).¹ U.S. Citizenship and Immigration Services (USCIS) may grant these discretionary waivers if refusal of admission would result in extreme hardship to a qualifying relative or qualifying relatives.

The Director of the Phoenix, Arizona Field Office denied the waiver application, concluding that the record did not establish that the Applicant’s parents, her only qualifying relatives, would suffer extreme hardship if the waiver application were denied.

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 remand the matter to the Director for the entry of a new decision.

I. LAW

Any noncitizen who seeks to procure, sought to procure, or has procured a benefit under the Act by fraud or willfully misrepresenting a material fact is inadmissible. Section 212(a)(6)(C)(i) of the Act. Individuals found inadmissible for fraud or misrepresentation may seek a discretionary waiver of inadmissibility under section 212(i) of the Act. This waiver is available if denial of admission would result in extreme hardship to a United States citizen or LPR spouse or parent.

¹ The Applicant does not contest these inadmissibility determinations, which are supported by the record.

A noncitizen who has been unlawfully present in the United States for more than 180 days but less than one year, voluntarily departed the United States prior to the commencement of proceedings under section 235(b)(1) or section 240 of the Act, and who again seeks admission within three years of the date of departure or removal from the United States, is inadmissible. Section 212(a)(9)(B)(i)(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 a spouse or parent who is a U.S. citizen or LPR. Section 212(a)(9)(B)(v) 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).

II. ANALYSIS

The Director concluded that the record did not establish that the Applicant’s parents would suffer extreme hardship if the waiver application were denied. The Director reviewed the asserted medical, emotional, and financial hardships in the event of her parents’ separation from her or their relocation with her to Mexico, as well as safety concerns in Mexico and the severing of family ties upon separation or relocation. He further determined that a favorable exercise of discretion was not warranted.

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. Establishing extreme hardship under both of these scenarios is not required if the applicant’s evidence demonstrates 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/policy-manual>. On appeal, the Applicant and her parents indicate that if the Applicant’s waiver application is denied, her U.S. citizen father and LPR mother will relocate with her to their home state of [REDACTED] Mexico because she is their caretaker. The issue on appeal is therefore whether the Applicant’s parents would experience extreme hardship upon relocation and, if so, whether the Applicant merits a waiver as a matter of discretion.

On appeal, the Applicant asserts that the Director erred in denying her waiver application for lack of extreme hardship. She emphasizes several hardship factors including the age of her parents; their family ties to the United States; the length of their residence in the United States; their financial, medical, and emotional concerns; and safety concerns in [REDACTED] Mexico. She asserts that the Director failed to consider the hardship evidence in the aggregate. She submits updated affidavits from her

parents and siblings, updated medical and prescription records for her parents, an updated personal affidavit, copies of several non-precedent AAO decisions,² a Department of State travel advisory for Mexico, and several articles relating to the conditions in Mexico and the effects of stress on heart health and depression.

On appeal, the Applicant highlights that her parents are both 77 years old. She indicates that her father has lived in the United States for 30 years and her mother has lived in the United States for eleven years. The record further indicates that two of their four children and three of their grandchildren live in Arizona. The Applicant asserts that moving abroad would thus entail loss of proximity to family members as well as a loss of community ties.

On appeal, the Applicant states that her parents will suffer economic hardship if they relocate to Mexico with her because they are physically unable to work and she would be unable to find sufficient work to support them. The record indicates that the Applicant's parents currently live in Arizona with the Applicant, her husband, and their children. The Applicant's parents' only income is their Social Security benefits, which are not sufficient to cover their expenses. The parents have indicated that they have no savings to rely on, although they indicated that they have owned their own home since 2002. According to the submitted affidavits, the Applicant and her husband contribute about \$1,500 a month to her parents to cover the difference between their Social Security income and expenses.³ The Applicant indicates that if she were to relocate to Mexico with her parents, she expects their monthly expenses to be about \$1,697 a month.

According to the affidavits submitted on appeal, the Applicant's parents cannot drive and rely on her completely for transportation to medical appointments, picking up medication, buying groceries, and other caretaking duties. The affidavits also indicate that they have chronic health issues, and that they have been treated by regular medical providers over the past several years. Updated records submitted on appeal include the Applicant's father's prescription list for 2019 and 2020 and his medical appointment summaries from 2012 to 2020. The records indicate multiple diagnoses for her father throughout that period including hyperlipidemia, hypertension, hypercholesterolemia, carotid artery stenosis, osteoarthritis of the knee, depression, thoracic aortic aneurysm, and lumbar spondylarthritis. The record also indicates that he will have double knee replacement surgery in the near future to help with high levels of arthritic pain and mobility issues. The prescription records from 2020 indicate that he was most recently prescribed medication for hypercholesterolemia, hypertension, pain, and depression.

Updated records submitted on appeal include the Applicant's mother's prescription list for 2019 and 2020 and her medical appointment summaries and test results from 2013 to 2020. The records indicate multiple diagnoses throughout the period including high cholesterol, hypertension, anemia, ulcer of the leg, hyperlipidemia, deep vein thrombosis, varicose veins, acute renal insufficiency, pyelonephritis, and peripheral neuropathy requiring her to use a walker at all times. The prescription records from 2020 indicate that she was most recently prescribed medication for hypertension. She also recently had a urinary tract infection that spread into her blood and required inpatient

² We note that while 8 C.F.R. § 103.3(c) provides that our precedent decisions are binding on USCIS, unpublished decisions are not similarly binding.

³ The tax documentation included with the waiver application and the brief submitted on appeal indicate that the Applicant does not work, and the household income is earned by her husband.

hospitalization. She indicates in her affidavit submitted on appeal that this is the second time she has had such an infection, and that the situation is likely to arise again. She indicates that she has been treated for depression in the past and feels that her mental state is deteriorating.

On appeal, the Applicant additionally submits the State Department's travel advisory for Mexico, last updated June 17, 2020, indicating that it has issued a "Do Not Travel To" advisory regarding their home state of [REDACTED] due to crime and kidnapping.⁴ The parents have both indicated a fear of returning to [REDACTED] where they are from and where the Applicant was born, due to the dangerous conditions there.

Because the record does not indicate that the Director reviewed this additional documentation before forwarding the appeal to our office, will return the matter to the Director to consider the new claims and evidence of extreme hardship and to determine whether the Applicant warrants a waiver in the exercise of discretion, if the Director finds that extreme hardship to one or more qualifying relatives has been established.

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

⁴ We note that the State Department currently advises "Do Not Travel" to [REDACTED] state due to crime and kidnapping. *See* Mexico Travel Advisory, U.S. Dept. of State - Bureau of Consular Affairs, at [https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/mexico-travel-advisory.html#:~:text=\[REDACTED\]%20state%20%E2%80%93%20Do%20Not%20Travel,have%20been%20victims%20of%20kidnapping](https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/mexico-travel-advisory.html#:~:text=[REDACTED]%20state%20%E2%80%93%20Do%20Not%20Travel,have%20been%20victims%20of%20kidnapping) (last visited May 9, 2022).