



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

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

In Re: 15368556

Date: OCT. 07, 2021

Appeal of Chicago, Illinois Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant seeks a waiver of inadmissibility under section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i).

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 into the United States 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. Section 212(i) of the Act.

The Director of the Chicago, Illinois Field Office found the Applicant inadmissible for a material misrepresentation made to obtain a nonimmigrant visa to the United States. The Director then denied the waiver, concluding that the Applicant did not establish extreme hardship to his spouse in the event of his continued inadmissibility.¹

On appeal, the Applicant does not contest the inadmissibility finding, which is supported by the record.² He contends that his spouse will experience extreme hardship because of his continued inadmissibility and that he merits a favorable exercise of discretion. In support, he submits new evidence of hardship.

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

¹ The Director makes hardship findings in regard to the Applicant’s mother-in-law and stepson, however, the Applicant’s sole qualifying relative for a section 212(i) waiver is his U.S. citizen spouse, thus, hardship to his stepson and/or mother-in-law should only be considered in as much it causes hardship to his spouse.

² We acknowledge the Applicant’s concern about his actions being misinterpreted. Our records show, as he states on appeal, that he misrepresented his marital and parental status to establish additional ties to Nigeria to obtain a nonimmigrant visa to the United States.

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). If the foreign national demonstrates the existence of the required extreme 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.

The Applicant must demonstrate that the refusal of his admission would result in extreme hardship to his U.S. citizen spouse. In the present case, the record contains statements indicating the Applicant's spouse would not relocate if the waiver is denied. The Applicant must therefore establish that if he is denied admission, his spouse would experience extreme hardship upon separation.

To support his waiver, the Applicant submitted the following hardship evidence: biographical documents, an affidavit from his spouse, 2018 medical records for his spouse, and country conditions evidence for Nigeria. The Director found the hardship evidence provided did not establish extreme hardship, describing how the medical documentation submitted did not reflect any current treatment needs or caregiving duties needed from the Applicant. The Director also indicated that the record contained very little evidence regarding the financial support the Applicant provides to his spouse or what conditions in Nigeria would be like if they were to relocate. To overcome these deficiencies, the Applicant submits: an affidavit from himself, an updated affidavit from his spouse, a psychological evaluation, evidence of the spouse's profession as a registered nurse in Illinois, medical documentation, financial documentation, and additional reports on country conditions in Nigeria.

The new evidence submitted reflects significant difficulties for the Applicant's spouse and must be evaluated regarding extreme hardship. For instance, the medical documentation indicates the Applicant's spouse, who is a breast cancer survivor, requires biannual mammograms to screen for cancer and is starting fertility treatments to have a child with the Applicant. In addition, in her psychological evaluation, the spouse reported experiencing severe physical and emotional symptoms due to extreme stress. The Licensed Clinical Social Worker (LCSW) describes the spouse's childhood and her lack of familial support, outside of the Applicant, due to her parents and sister being addicted to crack-cocaine. The LCSW who evaluated the spouse found her symptoms to be consistent with a diagnosis of separation anxiety disorder and adjustment disorder with mixed anxiety and depressed mood. She recommended the spouse continue to receive psychotherapy. Furthermore, the record now contains financial documentation from 2018 and 2019, including tax returns and W-2 Wage and Tax Statements for both the Applicant and his spouse showing that the Applicant earns a significant portion of the total household income.

As a result of the new hardship evidence submitted we will remand the matter for a new hardship analysis and, if necessary, a discretionary determination, making sure to include any extreme hardship finding as a significant positive discretionary factor.

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