



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

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

In Re: 18627609

Date: NOV. 17, 2021

Appeal of Memphis, Tennessee, Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native of India and citizen of Canada, filed an Application to Register Permanent Residence or Adjust Status, Form I-485. He also filed an Application for Waiver of Grounds of Inadmissibility, Form I-601, seeking a waiver of inadmissibility for unlawful presence under Section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v). *See also* Section 212(a)(9)(B)(i)(II) of the Act. The Applicant does not contest his inadmissibility, which is supported by the record.

The Director of the Memphis, Tennessee, Field Office denied the waiver application, concluding the record did not establish that the Applicant's qualifying relative, his U.S. citizen spouse, would experience extreme hardship if the waiver application were denied. In addition, the Director found that the Applicant failed to demonstrate that the waiver application should be granted as a matter of discretion.

On appeal, the Applicant contends that his spouse would experience extreme hardship if his waiver application were denied. *See* Section 291 of the Act, 8 U.S.C. § 1361; *see also* *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). In these proceedings, it is the Applicant's burden to establish eligibility for the requested benefit. Section 291 of the Act. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 212(a)(6)(C)(ii)(I) of the Act specifies:

Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this chapter . . . or any other Federal or State law is inadmissible.

To be found inadmissible under Section 212(a)(6)(C)(ii)(I) of the Act, there must be evidence that a foreign national made a false representation of U.S. citizenship for any purpose or benefit under the Act or any other federal or state law. While a waiver is available for unlawful presence under Section 212(a)(9)(B)(i)(II) of the Act, no waiver is available for false claim to U.S. citizenship ground of inadmissibility. *See* Section 212(a)(6)(C)(ii)(I)-(II) of the Act.

II. ANALYSIS

The Applicant is inadmissible under Section 212(a)(6)(C)(ii) of the Act for making a false claim to U.S. citizenship.¹ The record shows that in [REDACTED] 2014, he registered to vote in Ohio. *See* Ohio Rev. Code § 3503.07 (stating “[e]ach person . . . who is a citizen of the United States . . . be entitled to be registered as an elector”). He claimed on his certificate of voter registration that he was a U.S. citizen, and thus eligible to vote in elections in the United States. He signed the voter registration, “declar[ing] under penalty of election falsification I am a citizen of the United States, will have lived in this state for 30 days immediately preceding the next election, and I will be at least 18 years of age at the time of the general election.” The evidence, including the Applicant’s certificate of voter registration, shows that he falsely claimed to be a U.S. citizen to Ohio officials, and that he made the false claim to gain the right to vote in the United States. *See* 8 *USCIS Policy Manual* K.3(A), <https://www.uscis.gov/policy-manual/volume-8-part-k-chapter-3>; *see also* Ohio Rev. Code § 3503.07. The Applicant has not demonstrated that registering to vote is not a benefit under State law.

Based on the evidence discussed above, including the 2014 signed certificate of voter registration, the Applicant has failed to meet his burden of proof to establish admissibility. An applicant who fails to meet the burden of proof is inadmissible for falsely claiming U.S. citizenship under Section 212(a)(6)(C)(ii) of the Act unless he or she is able to successfully rebut the inadmissibility finding. *See* 8 *USCIS Policy Manual*, *supra*, K.3(B). In a December 2020 statement, the Applicant asserted that he “did not know [he] was registered to vote until [he] received” from the Director a request for evidence (RFE) associated with his I-485 application. He alleged that thereafter it “was a surprise to [him]” to learned from “online Ohio voter records [that he] was registered” to vote. He explained that he “must have accidentally registered to vote when [he] requested his driver’s license.” The record does not support his assertions. Specifically, according to an online printout, entitled “Voter Profile Page,” which the Applicant submitted in his RFE response, his “county board of elections has mailed [him] a confirmation notice” concerning his voter registration. This evidence does not support his assertions that he was unaware of his voter registration status until his receipt of the Director’s RFE.

On appeal, the Applicant claims on page 2 of his appellate brief that he “accidentally registered to vote” and he was “not entirely sure how that happened.” He states that “his registration must have been the consequence of a miscommunication between him and the [Ohio] Department of Motor Vehicle personnel, as he had no intention to register to vote or to vote and has never voted.”

In light of the evidence, including his 2014 signed certificate of voter registration, the Applicant’s unsubstantiated claim that he “accidentally” registered to vote by falsely representing himself to be a U.S. citizen to Ohio officials is insufficient to rebut the inadmissibility finding. Specifically, he has failed to establish clearly and beyond doubt that the false representation was not made for a purpose or benefit under the Act or any other federal or state law. *See* 8 *USCIS Policy Manual*, *supra*, K.3(B)(3); *Matter of Bett*, 26 I&N Dec. 437, 440 (BIA 2014); *see also* Ohio Rev. Code § 3503.07. As discussed, the record includes his 2014 certificate of voter registration, that the Applicant signed and “declar[ed] under penalty of election falsification I am a citizen of the United States”

¹ While the Director did not discuss this issue in the I-601 waiver application denial, the Director did conclude that the Applicant is inadmissible for falsely claiming U.S. citizenship in the February 2021 I-485 application denial.

The record also includes a copy of the Applicant's "Voter Registration Cancellation Request," which he submitted to Ohio officials, leading to the cancellation of his voter registration in September 2020. This documentation does not constitute evidence of timely retraction of the Applicant's false claim to U.S. citizenship. Specifically, the Applicant submitted the cancellation request nearly six years after he falsely claimed to be a U.S. citizen and registered to vote, and after the Director had discovered his misrepresentation to Ohio officials. *See Matter of Namio*, 14 I&N Dec. 412, 414-15 (BIA 1973) (finding that an individual failed to establish timely retraction when he "did not retract his statement until approximately one year later, and the retraction was not made until it appeared that the disclosure of the falsity of the statements was imminent").

As the Applicant's admission to the United States is statutorily barred by Section 212(a)(6)(C)(ii) of the Act, for which no waiver is available, we need not consider whether he may be eligible for a waiver of inadmissibility for unlawful presence under Section 212(a)(9)(B)(v) of the Act. *See also* Section 212(a)(9)(B)(i)(II) of the Act.

III. CONCLUSION

The record demonstrates that the Applicant is inadmissible under Section 212(a)(6)(C)(ii) of the Act for falsely claiming to be a U.S. citizen to register to vote in elections. As no waiver is available for a Section 212(a)(6)(C)(ii) inadmissibility, the Applicant's I-601 waiver application will remain denied in the exercise of discretion even if he had shown the requisite hardship.

ORDER: The appeal is dismissed.