



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

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

In Re: 36123952

Date: FEB. 13, 2025

Appeal of Los Angeles, California Field Office Decision

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

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 and seeks a waiver of that inadmissibility. *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 Los Angeles, California Field Office denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (waiver application), concluding that the record did not establish the Applicant’s lawful permanent resident spouse, a qualifying relative, would experience extreme hardship because of her continued inadmissibility. 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 withdraw the Director’s decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

Any alien 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 alien. If the alien demonstrates the existence of the required hardship, then he or she must also show that USCIS should favorably exercise its discretion and grant the waiver. Section 212(i) 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 found the Applicant inadmissible under section 212(a)(6)(C)(i) of the Act for fraud or misrepresentation. Specifically, the Applicant presented her passport with a fraudulently obtained Form I-551 stamp to immigration officers in her attempt to enter the United States in July 2000. Additionally, on her Form I-485, Application to Adjust Status (Form I-485), the Applicant responded “no” when asked if she had ever been arrested, cited, charged, or detained for any reason by law enforcement officials; ever submitted fraudulent or counterfeit documentation to a U.S. Government official to obtain or attempt to obtain any immigration benefit, including a visa or entry into the United States; and had ever lied about, concealed, or misrepresented any information on an application or petition to obtain a visa, other documentation required for entry into the United States, admission to the United States, or any other kind of immigration benefit.

On appeal, the Applicant does not contest her inadmissibility. She expresses remorse for her fraud or misrepresentation; and regarding the untruthful statements on the Form I-485, she states that she did not review the Form I-485 before signing. Regardless, an applicant’s signature “establishes a strong presumption” they knew and assented to the contents. *See Matter of Valdez*, 27 I&N Dec. 496, 499 (BIA 2018). The issue on appeal is whether the Applicant has established extreme hardship to her LPR spouse. The record establishes that the Applicant’s spouse would experience extreme hardship if she were denied admission to the United States. Our decision is based on a review of the record, which includes, but is not limited to, statements from the Applicant and her spouse, health records, and other documents contained in the record.

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. Demonstrating extreme hardship under both 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/policymanual>. In the present case, the Applicant’s spouse indicates that he would not relocate to Mexico if the Applicant’s waiver application remained denied. The Applicant must therefore establish that if she is denied admission, her spouse would experience extreme hardship upon separation.

On appeal, the Applicant states that she disagrees with the Director's decision because her previous counsel failed to convey the totality of extreme hardship that her spouse will suffer due to the absence of the Applicant, the emotional and psychological hardship felt by the Applicant's children, and that her spouse will "feel helpless in being able to ease the suffering of his children." She proffers that the favorable factors heavily outweigh the negative factors cited by the Director. We will analyze the Applicant's case in accordance with relevant extreme hardship law.

Below, the Director concluded that the Applicant's spouse provided conflicting information on how he would face extreme financial hardship, but noted he believed that having to care for his children would affect his hectic work schedule. The Director acknowledged the psychotherapist's clinical evaluation produced after 2 sessions with the Applicant's spouse. The psychotherapist opined that upon separation he would experience overwhelming stress due to being alone after a 31 year relationship, dealing with his personal medical issues, possibly losing the rental properties, needing to find childcare and working longer hours to afford the cost, becoming a "single father" to 6 children and contemplating the Applicant residing outside the United States without healthcare and the crime and violence she may encounter. The Director noted that the Applicant did not provide evidence that her spouse sought assistance from a psychiatrist or therapist.

The Director considered the circumstances of the Applicant's children as it related to the qualifying relative. The Director noted that although [redacted] was recently diagnosed with schizophrenia, and received Supplemental Security Income, he was over 21 years old, and the record did not support the Applicant's claim that she or her spouse needed to be his full-time caregivers. Regarding [redacted] a seventh grader, and [redacted] an eighth grader, both diagnosed with autism, the Director observed that [redacted] was taken out of a Special Education Program and was no longer on an Individualized Educational Program (IEP). While [redacted] had an IEP with [redacted] in connection with an Individualized Program Plan (IPP) offered through her school. [redacted] IPP reported that the Applicant was her primary caregiver, and that [redacted] needed someone in unfamiliar settings.

We will first address whether the Applicant's spouse would experience extreme hardship if she returned to Mexico. As referenced, the Applicant and her spouse share 6 children and have been married for 31 years. The Applicant's spouse works full-time in housekeeping at a hotel, and he attends auto collision, painting and repair classes at a college. The Applicant's spouse states that he earns about \$48,000 per year, the 2 rental properties he owns provides an additional \$24,000 per year in income, and he owes approximately \$50,000 on his credit cards. He states that even with the rental income, the monthly household income is not enough; and one of his properties requires thousands of dollars in repairs and upgrades which cannot be completed due to his limited finances. The Applicant is not employed outside the home. The Applicant's spouse states that he cannot support a second household if she relocates to Mexico, but if the Applicant is permitted to remain in the United States, she will be authorized to work and can receive an income through In-Home Supportive Services for providing full-time care for [redacted] Based on the record on appeal, the Applicant's spouse has adequately explained the financial hardship he will experience should the Applicant be separated. The Applicant's spouse explains that he did not continue with psychological counseling after he was diagnosed with depression and anxiety, because of his financial resources, and he did not want to do something that only benefitted him rather than paying for his family's living expenses. We determine

that the Applicant's explanation for his failure to seek further assistance from a psychiatrist or therapist overcomes the Director's concerns.

On appeal, the Applicant's spouse explains that [redacted] the youngest child at 5 years old, is extremely attached to the Applicant, while [redacted] is a college student who relies on his parents for financial support. Meanwhile, [redacted] who is a father, does not have a steady income, relies on his parents for support; parks outside the house and sleeps in his car rather than in the house, to avoid [redacted] who previously assaulted him. [redacted] for his part, continues to experience schizophrenic episodes. The Applicant's spouse further explains that the Applicant manages the household, prepares meals, does laundry, makes sure the four youngest children are showered, dressed, fed and is the parent who is more engaged with the children's medical and educational needs. She comforts [redacted] when he is overstimulated, helps him to tie his shoes and helps him when his lack of physical coordination impairs his ability to walk long distances or hold onto his cup or plate. The Applicant's spouse notes that [redacted] struggles with reading and writing skills, requires close supervision and cannot be left alone. Additionally, when [redacted] is in public, she wanders, which is problematic because she cannot remember her phone number or home address. At home [redacted] fights with her siblings and throws things, becomes impatient and aggressive, and the Applicant is the only person who can communicate with her at times. Importantly, the Applicant helps [redacted] with bathing, dressing and grooming. As the Applicant's spouse reported to the psychotherapist: "[redacted] still depends on my wife for help showering, and as her father, I feel it's inappropriate for me to assist her since she is a teenager. I'm concerned she won't want to shower without her mother present." Finally, the Applicant's spouse states that although 3 of his children are over 21 years old, they cannot help to manage the household or provide the same type of support as the Applicant. Moreover, there are no extended family members who can presently help or give support upon the Applicant's separation. Considering the evidence in the record, we determine that the Applicant's concerns go beyond the usual or typical results of removal or inadmissibility and represent emotional and medical hardships that rise to the level of extreme hardship for the qualifying relative.

The evidence, when considered cumulatively, establishes that the Applicant's spouse would experience extreme hardship should the Applicant's waiver remain denied. Accordingly, we will withdraw the Director's decision and return the matter for a determination of whether the Applicant warrants a favorable exercise of discretion such that her adjustment of status application may be approved.

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