



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

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

In Re: 8238962

Date: JUNE 12, 2020

Appeal of San Diego, California Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of Mexico, 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 San Diego, California Field Office denied the application, concluding that the record did not establish that the Applicant's only qualifying relative, her U.S. citizen spouse, would experience extreme hardship because of her continued inadmissibility.

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; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Except where a different standard is specified by law, an applicant must prove eligibility for the requested immigration benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). This office reviews the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. LAW

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 he or she must also show that USCIS should favorably exercise its discretion and grant the waiver. Section 212(i) of the Act.

II. ANALYSIS

The record reflects that the Applicant's U.S. citizen spouse filed Form I-130, Petition for Alien Relative, on her behalf and it was approved on May 30, 2014. The Applicant filed Form I-485, Application to Register Permanent Residence or Adjust Status, based on the underlying Form I-130. The Applicant was found to be inadmissible under section 212(a)(6)(C)(i) of the Act for fraud or

misrepresentation, and she therefore filed the Form I-601 which is now before us.¹ On April 14, 2020, the Applicant's spouse requested that the Form I-130 he filed on the Applicant's behalf be withdrawn.

The Applicant's Form I-601 was filed to waive her inadmissibility for fraud or misrepresentation and in order for her to adjust her status to lawful permanent resident pursuant to her Form I-485. These applications are based on the approved underlying Form I-130 which her spouse filed on her behalf. As the Applicant's spouse has requested withdrawal of this Form I-130, no purpose would be served in adjudicating the Applicant's Form I-601. Therefore, the appeal will be dismissed as a matter of discretion.

ORDER: The appeal is dismissed.

¹ The record reflects that the Applicant applied for admission to the United States on September 26, 2013, with a DSP-150 B-2 laser nonimmigration visa. She presented herself as a visitor when she was actually residing in the United States with her spouse.