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November 7, 2026

U.S. Citizenship and Immigration Services
Attn: I-601A
[USCIS filing address omitted from public sample]

RE	Form I-601A, Application for Provisional Unlawful Presence Waiver — Brief in Support
APPLICANT	Mrs. Daniela Isabel CÁCERES PINEDA, citizen of Honduras, residing in Charlotte, North Carolina
QUALIFYING RELATIVE	Mr. Brandon James WHITAKER, United States citizen by birth — spouse of the applicant
GROUND OF INADMISSIBILITY	INA § 212(a)(9)(B)(i)(II) — anticipated ten-year bar for unlawful presence when the applicant seeks admission after departure
WAIVER SOUGHT	Provisional waiver under INA § 212(a)(9)(B)(v) and 8 C.F.R. § 212.7(e) extreme hardship to the applicant's U.S. citizen spouse
UNDERLYING CASE	Form I-130 approved (Receipt No. IOE0000000000); immigrant visa case created at the National Visa Center (Case No. TGG2026000000), immigrant visa processing fee paid. Consular post is U.S. Embassy Tegucigalpa.
ENCLOSED	Form I-601A, Form G-28, filing fee, Index of Exhibits and Tabs 1–11

BRIEF IN SUPPORT OF APPLICATION FOR PROVISIONAL UNLAWFUL PRESENCE WAIVER

1. INTRODUCTION

This brief supports the Form I-601A filed by Mrs. Daniela Isabel Cáceres Pineda, a citizen of Honduras and the beneficiary of an approved Form I-130 filed by her U.S. citizen husband, Mr. Brandon James Whitaker. She has lived in the United States since March 2012. When she departs for immigrant visa processing at the U.S. Embassy in Tegucigalpa and seeks admission within ten years, INA § 212(a)(9)(B)(i)(II) will apply. She requests a provisional waiver under INA § 212(a)(9)(B)(v) because refusal of admission would cause extreme hardship to Mr. Whitaker. She seeks adjudication before leaving the United States for consular processing.

Mr. Whitaker is a journeyman electrician who works ten-hour days and spends two to three nights a week on out-of-town jobs. The couple has two U.S. citizen children, eight-year-old Isabella and four-year-old Mateo. Mateo was diagnosed with type 1 diabetes at age two. His mother was trained by his hospital care team to manage his insulin pump and glucose monitor, respond to overnight alarms and coordinate quarterly specialist visits. She also counts carbohydrates and follows the care team's dosing plan. If his wife cannot return, Mr. Whitaker would face a choice between keeping his job and assuming primary responsibility for Mateo's care. Relocating with the children would jeopardize his livelihood, separate him from his ill mother and disrupt Mateo's access to the supplies and specialist care he needs. The medical, financial and psychological evidence documents how each outcome would affect Mr. Whitaker.

Part 2 establishes the applicant's eligibility for the provisional waiver. Part 3 sets out the facts. Part 4 applies the extreme hardship standard to the separation scenario and the relocation scenario and addresses the cumulative effect of the hardship factors. Part 5 summarizes country conditions, Part 6 addresses discretion, and Part 7 concludes. References to Tabs are to the enclosed Index of Exhibits; a summary of the tab set appears at the end of this brief.

2. ELIGIBILITY FOR THE PROVISIONAL WAIVER

A. The ground of inadmissibility

INA § 212(a)(9)(B)(i)(II) applies to a noncitizen who accrues at least one year of unlawful presence and again seeks admission within ten years after departure or removal. Mrs. Cáceres Pineda entered without inspection in March 2012 at age nineteen. Her sworn declaration and the records at Tab 2 document her entry and continuous presence. The record identifies no period of authorized stay or applicable exception under INA § 212(a)(9)(B)(ii)–(iii). She has accrued more than a year of unlawful presence. Her immigration history and the background checks at Tab 10 disclose no other apparent inadmissibility ground. The Department of State will determine her admissibility and visa eligibility at consular processing.

B. The waiver provision and the provisional process

INA § 212(a)(9)(B)(v) permits a discretionary waiver for an immigrant who is the spouse or son or daughter of a U.S. citizen or lawful permanent resident if refusal of admission would cause extreme hardship to a U.S. citizen or lawful permanent resident spouse or parent. Under 8 C.F.R. § 212.7(e)(3)–(4), an eligible immigrant visa applicant may apply before departure. A provisional waiver is limited to inadmissibility for unlawful presence under INA § 212(a)(9)(B)(i). If granted, it takes effect after the applicant departs, appears for the immigrant visa interview, and the Department of State determines that she is otherwise eligible for the visa. 8 C.F.R. § 212.7(e)(12)(i).

Mrs. Cáceres Pineda is 34 and present in the United States. She will provide biometrics as directed and depart to obtain her immigrant visa. Her State Department case is pending on an approved I-130, and the immigrant visa processing fee has been paid (Tab 2). She anticipates only the unlawful-presence ground at interview. She has no removal proceedings or prior removal order and no pending adjustment application.

C. The qualifying relative

Mr. Whitaker was born in Gastonia, North Carolina, in 1990 and is a United States citizen by birth; his birth certificate and U.S. passport appear at Tab 3. He and Mrs. Cáceres Pineda were married in Mecklenburg County, North Carolina, on June 14, 2017; the certified marriage record, and evidence that neither spouse had a prior marriage, appear at Tab 3. He is therefore a qualifying relative under section 212(a)(9)(B)(v) of the Act. See USCIS Policy Manual, Vol. 9, Part B, Ch. 4. The couple's children, Isabella Grace Whitaker (born February 2018) and Mateo Daniel Whitaker (born September 2022), are U.S. citizens by birth (Tab 3). Although a child is not a qualifying relative for this waiver, the hardship the children would suffer is considered to the extent it affects Mr. Whitaker, and the displacement of a child's care onto the qualifying relative is, as discussed below, a factor USCIS treats as particularly significant.

3. STATEMENT OF FACTS

The facts below are drawn from the declaration of Mr. Whitaker (Tab 4), the medical and psychological evidence (Tab 5), the financial records (Tab 6), the children's records (Tab 7) and the supporting declarations (Tab 8).

The family. Mr. Whitaker, 36, has lived in the Charlotte area his entire life. He has worked for Piedmont Electrical Contractors, Inc. since 2014, holds the position of journeyman electrician, and earned $64,800 in 2025 (Tab 6). His work begins at 6:30 a.m. and typically ends at 5:00 p.m.; because the company builds commercial projects across the Carolinas, he is assigned to out-of-town sites in Greenville, Raleigh and Columbia for two to three nights in most weeks (Tab 8, employer declaration). Mrs. Cáceres Pineda, 34, came to the United States from Juticalpa, in the department of Olancho, Honduras, in 2012 and has lived in Charlotte since 2013. The couple met in 2015, married in 2017 and purchased their home in east Charlotte in 2021 (Tab 6). Mrs. Cáceres Pineda cares for the children and the household full time.

Mateo’s diabetes. In February 2025, at age two, Mateo was hospitalized with diabetic ketoacidosis and diagnosed with type 1 diabetes. He requires insulin replacement (Tab 5). His pediatric endocrinologist, Dr. Elaine Marsh of Carolinas Pediatric Endocrinology Associates, sees him every three months. His current regimen uses an insulin pump and a

continuous glucose monitor. Dr. Marsh's letter explains what his care requires: counting the carbohydrates in everything he eats and programming the pump accordingly; changing the pump infusion site every three days and the glucose sensor every ten days; responding to monitor alarms, including during the night, with glucose for low readings and correction doses for high ones; and recognizing the early signs of ketoacidosis, which in a child of Mateo's age can develop within hours. In March 2026 Mateo was taken to the emergency department after a severe overnight hypoglycemic episode that his mother detected and treated (Tab 5). Dr. Marsh's letter states that Mrs. Cáceres Pineda completed the hospital's diabetes education program, that she is the caregiver whom the care team has trained and relies on, and that Mateo's control depends on an adult who is with him continuously and who has that training.

Isabella. Isabella is in the third grade at Oak Hollow Elementary School, where her attendance and performance records appear at Tab 7. She speaks English at school and with her father, and Spanish with her mother; she reads and writes only in English. Her teacher's letter (Tab 8) describes her as a strong student who has become anxious since her brother's diagnosis and who relies on her mother's presence at home.

Mr. Whitaker's mother. Mr. Whitaker's mother, Linda Whitaker, 67, lives in Gastonia, about twenty-five miles from the family's home. She was diagnosed with chronic obstructive pulmonary disease in 2023 and uses supplemental oxygen at night; her physician's letter at Tab 8 states that she cannot safely assume the physical care of young children and that her son is her primary support for medical appointments and household tasks. Mr. Whitaker's father died in 2019. He has no other close family.

Mr. Whitaker’s mental health. Teresa Nakamura, Psy.D., a licensed psychologist, evaluated Mr. Whitaker in September 2026 (Tab 5). She diagnosed adjustment disorder with mixed anxiety and depressed mood. Symptoms began after Mateo’s diagnosis and worsened when the family learned the applicant would need to depart for her visa interview. Dr. Nakamura documents insomnia, difficulty concentrating at work and persistent fear for Mateo’s safety. She identifies an increased risk of a major depressive episode if Mr. Whitaker assumes sole caregiving or relocates to Honduras, where he has limited Spanish, no employment lined up and no established support network of his own.

Ties to Honduras. Mr. Whitaker has never left the United States and speaks only basic Spanish. He has no relatives of his own in Honduras. Mrs. Cáceres Pineda’s mother and two brothers live in Juticalpa, Olancho. Her mother is in poor health and relies on their remittances. As detailed in Tab 9, the family’s inquiries identified providers in larger cities and found no dependable local source for Mateo’s specific pump and sensor supplies in Juticalpa.

4. REFUSAL OF ADMISSION WOULD RESULT IN EXTREME HARDSHIP TO MR. WHITAKER

A. The legal standard

Extreme hardship is not a term of fixed and inflexible content; it depends on the facts and circumstances of each case. *Matter of Hwang*, 10 I&N Dec. 448, 451 (BIA 1964). The Board has identified the factors that bear on the inquiry: the presence of lawful permanent resident or U.S. citizen family ties in this country; the qualifying relative's family ties outside the United States; the conditions in the country of relocation and the extent of the relative's ties there; the financial impact of departure; and significant conditions of health, particularly when tied to the unavailability of suitable medical care in the country of relocation. *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565–66 (BIA 1999). The factors are weighed cumulatively, so that hardships which might not individually be extreme may be extreme in the aggregate. *Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996); *Matter of Ige*, 20 I&N Dec. 880, 882 (BIA 1994).

The applicant must prove eligibility and that she merits favorable discretion by a preponderance of the evidence. 8 C.F.R. § 212.7(e)(7). Under the USCIS Policy Manual, Vol. 9, Part B, Ch. 4, an applicant can establish extreme hardship under one scenario if the evidence shows that scenario would result. Where the record does not establish whether the qualifying relative would remain or relocate, the applicant must establish extreme hardship under both scenarios. Mr. Whitaker's declaration describes the competing risks and does not commit to either course (Tab 4). The brief therefore addresses both. Common consequences of separation or relocation do not alone establish extreme hardship. See Matter of Pilch, 21 I&N Dec. 627, 630–31 (BIA 1996). USCIS evaluates the circumstances cumulatively, including serious medical needs, displacement of caregiving and relevant safety risks. USCIS Policy Manual, Vol. 9, Part B, Ch. 5.

B. Separation: Mr. Whitaker remains in the United States with the children

1. Displacement of Mateo's medical care onto Mr. Whitaker

The Policy Manual identifies as particularly significant the situation in which the applicant's departure would substantially displace the care of her children onto the qualifying relative, and it treats the serious medical condition of a related family member in the same way. Vol. 9, Part B, Ch. 5. Both factors are present at their most acute. Mateo's survival depends, every day and every night, on a trained adult who is physically with him. That adult is his mother. Dr. Marsh's letter is explicit that the care team has trained Mrs. Cáceres Pineda, that she manages the pump and monitor, and that she is the person who detected and treated the overnight hypoglycemia that sent Mateo to the emergency department in March 2026 (Tab 5). Mr. Whitaker has attended the clinic visits he could and understands the basics, but he cannot be present: his shift begins before the children wake and he is away from Charlotte two to three nights a week (Tabs 4 and 8).

The family has no relative who can take over Mateo's care. Mr. Whitaker's mother cannot do so (Tab 8). The childcare providers contacted for this case could not cover the pump management and overnight hours the family needs. The quotes at Tab 6 place qualified in-home care at about $3,400 per month, more than half his take-home pay. If replacement care remains unavailable or unaffordable, Mr. Whitaker would need to seek lower-paid local work with regular hours. Even on that schedule, he would still face

overnight monitoring and emergency response alongside work and daytime caregiving. The combination of medically demanding care and limited replacement options is particularly significant. USCIS Policy Manual, Vol. 9, Part B, Ch. 5(E)(2), (5).

2. Financial hardship

Mr. Whitaker earned $64,800 in 2025. The family pays $1,640 per month for its mortgage and averages $410 per month in out-of-pocket costs for Mateo's insulin, equipment and clinic visits under its health plan. The budget at Tab 6 shows a monthly surplus of about $290. Adding $3,400 per month for qualified care would produce a monthly deficit of about $3,110. The employer evidence and wage data at Tabs 6 and 8 indicate that switching to a local position could reduce his earnings by roughly one-third and put his current employer-sponsored coverage at risk. The estimates at Tab 6 put the retail cost of pump supplies and insulin above $1,100 per month without coverage. Replacing the unpaid care his wife provides would therefore create a deficit even if he kept his current earnings. Changing jobs could compound the loss of income with higher out-of-pocket costs. Either outcome would threaten the family's ability to keep its home and maintain Mateo's care.

3. Psychological hardship

Dr. Nakamura's evaluation documents adjustment disorder with mixed anxiety and depressed mood and a heightened risk of a major depressive episode upon separation (Tab 5). Based on two interviews and standardized measures, she ties that risk to sole responsibility for Mateo's care, loss of sleep and fear for his wife's safety abroad. The State Department's Honduras advisory and the family's circumstances support consideration of his resulting distress. USCIS Policy Manual, Vol. 9, Part B, Ch. 5(E)(4). His work and Mateo's care would also limit opportunities to visit. If she is refused admission under the ten-year bar, the family faces potentially prolonged separation.

4. Hardship to the children as it affects Mr. Whitaker

The children's hardship matters insofar as it increases the burden on their father. USCIS Policy Manual, Vol. 9, Part B, Chs. 4–5. Isabella's teacher reports increased anxiety since her brother's diagnosis and reliance on her mother (Tab 8). Mateo has never been separated from his mother. Mr. Whitaker would have to support both children through the separation while managing Mateo's medical needs and the household's finances.

5. Loss of Mr. Whitaker's support for his mother

Mr. Whitaker is his mother's only child and her primary support (Tab 8). With his wife gone and the children's care on him, he could not continue to drive her to her pulmonology appointments or maintain her home. The separation scenario therefore strips him of the ability to meet obligations to two generations at once.

C. Relocation: Mr. Whitaker and the children move to Honduras

1. Mateo's medical care

Access to appropriate care is relevant to the relocation analysis. Matter of Cervantes-Gonzalez, 22 I&N Dec. 560, 565–66 (BIA 1999). Dr. Marsh explains that Mateo needs a reliable supply of his prescribed insulin, compatible pump infusion sets and glucose sensors, and quarterly pediatric endocrinology care (Tab 5). Inquiries summarized at Tab 9 identified specialist appointments in Tegucigalpa and San Pedro Sula, both requiring travel from Juticalpa. The suppliers contacted could not assure a dependable source for Mateo's specific devices and consumables. Private imports would add costs the projected local income would not cover (Tabs 6 and 9). Dr. Marsh explains that interruptions in this regimen would increase the risk of ketoacidosis or severe hypoglycemia. Mr. Whitaker would face the cost and uncertainty of securing that care for his son while seeking work and adjusting to a new country.

2. Mr. Whitaker's employability and the loss of the family's livelihood

Mr. Whitaker's experience is in U.S. commercial construction. He speaks basic Spanish, has not established whether his electrical qualifications would be recognized in Honduras, and has no professional network there. The wage evidence at Tab 9 projects considerably lower earnings, and his employer states it cannot hold his U.S. position open (Tab 8). Selling the home would yield little equity after costs (Tab 6). The resulting loss of income and existing insurance would make it harder to finance travel for specialist visits and obtain Mateo's supplies.

3. Safety

The Department of State's August 25, 2026 advisory rates Honduras Level 3, "Reconsider Travel," due to crime and describes the risk of armed robbery and extortion (Tab 9). The advisory is relevant to the family's actual destinations and travel routes, including trips from Juticalpa for specialist care. See USCIS Policy Manual, Vol. 9, Part B, Ch. 5(E)(4). Mr. Whitaker's limited Spanish and unfamiliarity with local services would compound the practical burden of traveling with two young children.

4. Family ties, language and the children's education

Relocation would separate Mr. Whitaker from his mother and prevent him from providing her regular support (Tab 8). Isabella speaks conversational Spanish but reads and writes only in English. Moving into a Spanish-language school would require significant adjustment. Cf. Matter of Kao and Lin, 23 I&N Dec. 45, 50–51 (BIA 2001) (considering the educational and linguistic adjustment of a U.S. citizen child in a suspension case). Here the relevance is the added burden on Mr. Whitaker, who would need to help Isabella adjust while coordinating Mateo's care with limited Spanish. Dr. Nakamura describes an elevated psychological risk under those conditions (Tab 5).

D. The hardship is extreme in the aggregate

Hardship factors are considered cumulatively within each scenario. Matter of O-J-O-, 21 I&N Dec. 381, 383 (BIA 1996). In separation, Mr. Whitaker faces substantial displacement of caregiving, a documented mental health risk and pressure on his income and ability to assist his mother. In relocation, he faces the loss of U.S. employment and insurance, difficulties obtaining his son's supplies and specialist care, separation from his mother, and language and educational barriers affecting the family. The evidence establishes extreme hardship to Mr. Whitaker under each scenario. See USCIS Policy Manual, Vol. 9, Part B, Ch. 5.

5. COUNTRY CONDITIONS

Tab 9 includes the Department of State's August 25, 2026 Honduras travel advisory and country information, as well as sources on local safety, healthcare access and wages. It also includes the family's inquiries about providers and the supply of Mateo's specific pump and glucose-monitor consumables. The evidence addresses the locations where this family would live and obtain care, the travel required to reach specialist services, and the cost of obtaining supplies relative to projected earnings. The family would likely live near the applicant's relatives in Juticalpa. The inquiry evidence therefore focuses on dependable access from that location and the cost of obtaining supplies there. The dated materials are identified in the Index of Exhibits.

6. THE APPLICATION MERITS A FAVORABLE EXERCISE OF DISCRETION

Approval is discretionary. 8 C.F.R. § 212.7(e)(7)–(8). USCIS balances the favorable and adverse factors. See USCIS Policy Manual, Vol. 9, Part B, Ch. 7; cf. Matter of Mendez-Moralez, 21 I&N Dec. 296, 300–01 (BIA 1996) (balancing equities in the INA § 212(h) context). The favorable factors include the documented hardship to Mr. Whitaker, the applicant's role as primary caregiver for two U.S. citizen children, and more than fourteen years of residence. The North Carolina and FBI checks in the record disclose no criminal history. The tax records document joint filings, and the teacher, pastor and neighbors attest to her school and parish volunteering and her ties to the community (Tabs 6, 8 and 10). Her entry without inspection and lengthy unlawful presence weigh against approval. She acknowledges both in her declaration. On this record, her family responsibilities, demonstrated hardship to her spouse and other equities outweigh those immigration violations.

7. CONCLUSION

Mrs. Cáceres Pineda meets the requirements for a provisional unlawful presence waiver under 8 C.F.R. § 212.7(e). The evidence establishes extreme hardship to her U.S. citizen spouse under either foreseeable outcome. If he remains here, he would assume primary care for two children, including a four-year-old with substantial medical needs, while trying to preserve the employment and insurance that support them. If he relocates, the evidence shows significant barriers to obtaining and paying for his son's care, compounded by the loss of employment and separation from his mother. The applicant also merits favorable discretion.

The applicant respectfully requests that Form I-601A be approved.

Respectfully submitted,

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SUMMARY OF THE TAB SET

Tab	Contents
1	Form I-601A; Form G-28; fee payment
2	Applicant's declaration and entry and residence evidence; Honduran passport; immigration history records; approved Form I-130; NVC case summary and immigrant visa processing fee receipt.
3	Qualifying relative's status and relationship: Mr. Whitaker's U.S. birth certificate and passport; marriage certificate (Mecklenburg County, June 14, 2017); children's birth certificates
4	Declaration of Brandon J. Whitaker
5	Medical and psychological evidence: Mateo's pediatric endocrinology records and provider letter (Dr. Elaine Marsh, M.D.); hospital discharge summaries (Feb. 2025 and Mar. 2026); diabetes education records naming the applicant as trained caregiver; psychological evaluation of Mr. Whitaker (Teresa Nakamura, Psy.D.)
6	Financial evidence: 2023–2025 joint federal returns and W-2s; employer letter and pay statements; mortgage statement; household budget; childcare and medically trained caregiver cost quotes; health insurance summary of benefits
7	Children's evidence: school enrollment and attendance records; Mateo's school health plan; pediatrician letter
8	Supporting declarations: Linda Whitaker (mother of the qualifying relative) and her physician's letter; Piedmont Electrical Contractors, Inc. (employer); Oak Hollow Elementary School (teacher); Our Lady of the Pines Catholic Church (pastor)
9	Country conditions: dated Department of State advisory and country information; safety and wage sources; provider and supplier inquiries on specialist access and Mateo's specific medical supplies.

10	Discretionary evidence: North Carolina and FBI record checks, tax compliance, Charlotte residence since 2013, and community and volunteer letters.
11	Full English translations with translator certifications (8 C.F.R. § 103.2(b)(3)).