U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 16692483

Date: APR. 25, 2022

Appeal of Los Angeles 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). The Director of the Los Angeles, California Field Office denied the application, concluding that the record did not establish, as required, that denial of admission would result in extreme hardship to the Applicant's parents, the only qualifying relatives.

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. Upon *de novo* review, we will dismiss the appeal because the Applicant has not met this burden.

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 discretionary waiver of this inadmissibility if refusal of admission would result in extreme hardship to the U.S. citizen or lawful permanent resident spouse or parent of the foreign national. 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). In these proceedings, it is the applicant's burden to establish by a preponderance of the evidence eligibility for the requested benefit. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The Director determined the Applicant inadmissible for fraud or misrepresentation under section 212(a)(6)(C)(i) of the Act by attempting entry into the United States using a false identification. On appeal, the Applicant does not contest her inadmissibility. Thus, the Applicant must demonstrate that denial of the application would result in extreme hardship to a qualifying relative or relatives, in this case her U.S. lawful permanent resident parents. Section 212(i) of the Act.

An applicant may show extreme hardship in two scenarios: 1) if the qualifying relatives remain in the United States separated from the applicant and 2) if the qualifying relatives relocate overseas with the applicant. *See* 9 *USCIS Policy Manual* B.4(B), https://www.uscis.gov/policymanual (providing, as guidance, the scenarios to consider in making extreme hardship determinations). Demonstrating extreme hardship under both of these scenarios is not required if the applicant's evidence demonstrates that one of these scenarios would result from the denial of the waiver. *See id.* (citing to *Matter of Calderon-Hernandez*, 25 I&N Dec. 885 (BIA 2012) and *Matter of Recinas*, 23 I&N Dec. 467 (BIA 2002)). 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. *See id.* In the present case, the record does not contain a statement from the Applicant's parents indicating whether they intend to remain in the United States or relocate to Mexico if the Applicant's waiver application is denied. The Applicant must therefore establish that if she is denied admission, her qualifying relatives would experience extreme hardship both upon separation and relocation.[1]

The Applicant provided a statement indicating that both of her parents reside with her in the United States. In addition, she stated that her mother had open heart surgery and is also being treated for hypertension and diabetes. Further, her father suffered a stroke a few years ago, confining him to a wheelchair that requires assistance with daily tasks, and also has a heart condition, hypertension, and hyperlipidemia. Moreover, she claimed that she is responsible for preparing their meals, taking them to doctor appointments, being their companion, and although her other sisters help out until she arrives home from work, she spends more time with them than anybody else. The record also contains a letter from her mother's doctor (discussing that the mother's "chronic diagnosis is Htn, Hyperlipidemia [and] she also had a heart surgery," and a letter from her father's doctor (stating that he "suffered a massive stroke within a more recent timeframe in which he requires more active support for his activities of daily living due to significant residual neurologic deficits" and has "prior sustained ventricular tachycardia, hypertension, and hyperlipidemia."

On appeal, the Applicant submits photographs of her parents and letters from her four sisters. The letters describe the Applicant's caregiving responsibilities and claim that they cannot provide the same

[1] Although the Applicant's attorney claimed in the initial cover letter that "it would be impossible for [the Applicant's] parents to accompany her to her home country if she were force to return there for an unknown period of time," the record does not contain evidence of the parents' intentions to remain in the United States without the Applicant or relocate to Mexico with the Applicant if the waiver application is denied. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the applicant's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

care and support. In addition, the Applicant offers an updated letter from [redacted] who indicated the father's requirement of 24-hour care and his heart condition may be exacerbated by emotional stress due to the possible separation from the Applicant. Further, the Applicant provides an updated letter from [redacted] who repeats the mother's medical conditions and claims that she "can not travel to Mexico because of her heart condition as she is at risk of Myocardial Infarction and stroke requiring medical care."

Here, the Applicant has not demonstrated that her parents would suffer extreme hardship if they relocated to Mexico with her. As indicated above, the Applicant's hardship claims relate to her parents' daily living needs and medical issues. However, the Applicant did not establish why she could not provide such care upon relocation with her or why they could not receive such treatment in Mexico. Similarly, the Applicant did not show why her parents could not reside with her in Mexico, their native country. Furthermore, [redacted] did not indicate why the Applicant's father could not seek treatment for his medical conditions in Mexico. Moreover, although [redacted] claimed that the Applicant's mother could not travel to Mexico, she did not elaborate and explain how travelling to Mexico puts her at risk for Myocardial Infarction or stroke or why she could not receive treatment in Mexico for her medical conditions. Without further evidence, the Petitioner has not demonstrated that her parents would suffer extreme hardship upon relocation.

The Applicant must establish by a preponderance of the evidence that denial of the waiver application would result in extreme hardship to a qualifying relative both upon separation and relocation. Section 212(i) of the Act; *Chawathe*, 25 I&N Dec. at 375; *see also* 9 *USCIS Policy Manual* B.4(B), (providing, as guidance, the scenarios to consider in making extreme hardship determinations). As the Applicant has not established extreme hardship to her parents in the event of relocation, we need not consider extreme hardship to her parents upon separation.

ORDER: The appeal is dismissed.