U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 22478837

Date: AUG. 30, 2022

Appeal of New York City, New York Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of the Dominican Republic, 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 New York City, New York Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the record did not establish that the Applicant's only qualifying relative, his U.S. citizen spouse, would experience extreme hardship because of his continued inadmissibility. The matter is now before us on appeal. On appeal, the Applicant submits evidence and a brief asserting his eligibility. The Administrative Appeals Office reviews 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 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 U.S. citizen or lawful permanent resident spouse or parent of the foreign national. If the foreign national demonstrates the existence of the required hardship, then they must also show that U.S. Citizenship and Immigration Services 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).

The burden of proof is on an applicant to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

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 misrepresented himself as married in an October 2018 B1/B2 nonimmigrant visa application. The Applicant does not contest this finding on appeal. The issue on appeal is whether the Applicant has established extreme hardship to his spouse. The record does not establish that the Applicant's spouse would experience extreme hardship due to his continued inadmissibility. Our decision is based on a review of the record, which includes, but is not limited to, statements from the Applicant and his spouse, medical records, photographs, letters of support, and financial records.

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 record does not contain a statement from the Applicant's spouse clearly indicating the intention to either remain in the United States or relocate to the Dominican Republic if the Applicant's waiver application is denied. The Applicant must therefore establish that if he is denied admission, his spouse would experience extreme hardship both upon separation and relocation.

First, we will address whether the Applicant's spouse would experience extreme hardship if she relocated to the Dominican Republic. The Applicant's spouse mentions that she has resided in the United States since 1996; it would be hard to be separated from her adult son, her sister, and her nephew in New York; her mother who lived in the Dominican Republic passed away in 2020; and her three siblings who reside in the Dominican Republic intend to move to the United States based on her visa sponsorship. The Applicant's spouse states that she has medical conditions, including severe arthritis, pre-diabetes, high blood pressure, obesity, and high cholesterol. She further states that she cannot afford to disrupt her health coverage and access to her doctor, who she has seen regularly since 2015. Her doctor and medical records reflect that she has the stated medical conditions. Furthermore, the Applicant's spouse states that she is scheduled to have surgery to reduce her weight and relieve her knee pain, and she has many other "constitutional," respiratory, cardiovascular, endocrine, gastrointestinal, and psychological symptoms. Next, the Applicant mentions that it would be extremely difficult for his spouse to find employment in the Dominican Republic due to her health and being 59 years old. If the Applicant's spouse found employment in the Dominican Republic, the Applicant claims that her income would be insufficient to cover her mortgage for her New York home, and she would be forced to default on her loan and lose her down payment. We note that the Applicant's spouse is currently working as a teacher's assistant and at a wholesale store.

The record reflects that the Applicant's spouse would experience difficulty in the Dominican Republic due to leaving her long residence in the United States, separation from family members, loss of current medical care provider, and loss of current employment. However, the record does not establish that her hardship rises to the level of extreme hardship. We note that the Applicant's spouse is originally from the Dominican Republic and is familiar with the language and culture there. While the Applicant's spouse has medical issues, the record does not establish she would be unable to receive suitable medical treatment in the Dominican Republic. In addition, the record does not establish that she would be unable to obtain employment there or the overall level of financial hardship she may experience. Considering all the evidence in its totality, the record is insufficient to show that the hardships faced by the Applicant's spouse upon relocation would rise beyond the common results of removal or inadmissibility. Therefore, the Applicant has not established that his spouse would experience extreme hardship upon relocation if his waiver application were denied.

The Applicant must establish by a preponderance of the evidence that denial of the waiver application would result in extreme hardship to his spouse upon both separation and relocation. As the Applicant has not established extreme hardship to his spouse in the event of relocation, we cannot conclude he has met this requirement. As such, no purpose would be served in determining whether the Applicant merits a waiver as a matter of discretion.

ORDER: The appeal is dismissed.