U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 19785707

Date: FEB. 1, 2022

Appeal of Nebraska Service Center Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, who requested an immigrant visa abroad, 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 of a material fact.

The Director of the Nebraska Service Center denied the waiver and subsequently affirmed the decision on motion, concluding that the record did not establish, as required, that denial of admission would result in extreme hardship to the Applicant's U.S. citizen spouse, the only qualifying relative.

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

A U.S. Department of State consular officer determined the Applicant inadmissible for fraud or misrepresentation under section 212(a)(6)(C)(i) of the Act. On appeal, the Applicant does not contest her inadmissibility. Thus, the Applicant must establish that denial of the waiver would result in extreme hardship to a qualifying relative or qualifying relatives, in this case her U.S. citizen spouse. 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 of these scenarios is not required if an applicant's evidence establishes 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.

On appeal, the Applicant contends that her spouse would suffer extreme hardship if he relocated to Pakistan. However, the record does not show that her spouse intends to relocate to Pakistan if the Applicant's waiver application is denied. At initial filing, the Applicant provided a letter from her spouse stating that he "can't go to Pakistan because the environment there worries [him] too much for [his] wife and children." In addition, the Applicant offered a psychosocial evaluation for her spouse informing the psychologist that "he does not prefer to return to Pakistan." Although the Applicant asserts hardships on appeal that her spouse would face upon relocating to Pakistan, the record indicates that her spouse plans to remain in the United States. Therefore, the Applicant must establish that her spouse would experience extreme hardship upon separation.

In his statement, the Applicant's spouse expresses that his biggest dream is to have the Applicant be here in the United States so his family can be complete and that his youngest daughter needs a mother's support. In addition, he states that he has to take care of his children and his businesses. He also indicates that he has hearing loss, high cholesterol, high blood pressure, asthma, and extreme depression. The record contains her spouse's medical records relating to his medical issues, photographs of the family, her spouse's income taxes for 2015 and 2016, financial documentation for her spouse's businesses, her spouse's personal bank statements and utility bills, and support letters from friends and family members. As indicated above, the Applicant provided a psychosocial evaluation, diagnosing her spouse with adjustment disorder and noting that he is extremely stressed about his current conditions. Further, the report reflects that the Applicant's children have been residing with her spouse in the United States for approximately 10 years.

Although she documented her spouse's medical conditions, the Applicant did not sufficiently show how refusal of her admission into the United States would impact his medical issues at an extreme level. The record, for instance, does not indicate that her spouse's conditions affect his ability operate his businesses or engage in other activities, or that he requires the Applicant's assistance to complete daily tasks. In addition, while the medical reports provide recommendations for his medical issues, such as frequent steroids and inhaled treatments for his asthma, securing hearing aids for his hearing

loss, and taking medication to control his cholesterol and high blood pressure, the record does not establish the spouse's inability to obtain such treatments in the Applicant's absence. Nor is there evidence that the spouse would rely on the Applicant for help in managing his symptoms or conditions aside from her general emotional support, or that he is otherwise dependent on the Applicant for care. We note that the psychosocial evaluation did not elaborate on any recommended or potential treatment plans.

The record also reflects that the Applicant and her spouse have three U.S. citizen children, ages 26, 18, and 14. According to the psychosocial evaluation, the oldest child is living on her own outside of the United States and the other two children reside with him. The evaluation does not mention any issues that her spouse has experienced raising the children on his own or any difficulties the children have encountered without the presence of the Applicant. Moreover, the evaluation indicated that her spouse reported that the children are established and doing well in their schools. Further, her spouse expressed concern for the lack of a motherly influence and tenderness in their lives. In addition, the Applicant submitted letters from the middle and youngest children, who discussed missing the Applicant and requested that she be allowed to live with them.

On its own, hardship to a non-qualifying relative cannot satisfy the extreme hardship requirement. *See 9 USCIS Policy Manual*, *supra*, at B.4(D)(2). In some cases, however, the hardship experienced by non-qualifying relatives can be considered as part of the extreme hardship determination, but only to the extent that such hardship affects one or more qualifying relatives. *Id.* Here, the Applicant did not sufficiently demonstrate the significance of the hardships of the children on her spouse. While we acknowledge the difficulties of family separation, the hardship must exceed that which is usual or expected. *Pilch*, 21 I&N Dec. at 630-31 (finding that severing family and community ties were the "common result of deportation" and did not alone constitute extreme hardship). Notwithstanding that her spouse has been providing the care and support for the children for the past 10 years without her assistance, the Applicant did not establish that her spouse would be unable to continue to do so in the future.

Moreover, the Applicant did not demonstrate that her spouse faces economic hardships. The record reflects that her spouse operates a meat market and restaurant. According to the business' bank statements, they maintain significant balances, and the Applicant did not establish any financial struggles. Similarly, her spouse's personal bank statements indicate substantial balances without any monetary deficiencies. Here, the Applicant did not show how her admission into the United States would impact either her spouse's businesses or the family's economic status. Without further evidence, the record does not reflect the extent of her economic contributions on her spouse and that he would suffer extreme hardship based on her absence.

Based on the record, we cannot conclude that, when considered in the aggregate, any emotional, medical, and financial hardships the Applicant's spouse would experience upon separation from the Applicant would go beyond the common results of inadmissibility or removal and rise to the level of extreme hardship.

III. CONCLUSION

The Applicant did not establish that her spouse would suffer extreme hardship based upon separation. As such, we need not consider whether she merits a waiver in the exercise of discretion. The waiver application will therefore remain denied.

ORDER: The appeal is dismissed.