U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 16807930

Date: FEB. 2, 2022

Appeal of Washington, D.C., Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of Egypt, has applied to adjust status to that of a lawful permanent resident and seeks a waiver of inadmissibility under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i). Section 212(i) of the Act, 8 U.S.C. § 1182(i), provides for a waiver of this inadmissibility if denial of admission would result in extreme hardship to the United States citizen or lawful permanent resident spouse or parent of the noncitizen.

The Director of the Washington, D.C., Field Office denied the application, concluding that the record established that the Applicant was inadmissible to the United States under section 212(a)(6)(C)(i) of the Act for fraud or willful misrepresentation of a material fact. The Director further concluded that the record did not establish, as required, that denial of admission would result in extreme hardship to the Applicant's qualifying relative, his U.S. citizen spouse. The Director also concluded that adverse factors in his case would preclude favorable discretion even if the record had established extreme hardship to the qualifying relative. On appeal, the Applicant asserts that his qualifying relative spouse would experience extreme hardship in the event that the Applicant is not granted a waiver of inadmissibility, and that he warrants favorable discretion.

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.

I. LAW

A noncitizen 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 a U.S. citizen or lawful permanent resident spouse or parent. Section 212(i) of the Act. If the noncitizen demonstrates the existence of the required hardship, then they must also show that U.S. Citizenship and Immigration Services (USCIS) should favorably exercise its discretion and grant the waiver. *Id.*

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).

II. ANALYSIS

The Applicant does not contest the finding of inadmissibility for fraud or misrepresentation, a determination supported by the record.[1] The issue on appeal is whether the Applicant's qualifying relative would experience extreme hardship if the waiver is denied. 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. *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)). An 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 waiver is denied. *See id.*

In support of the application, the Applicant submitted a two-page statement from his spouse. The Applicant's spouse does not specifically state whether she would remain in the United States or relocate with the Applicant abroad; however she discusses the "possibility of my husband not being in his kids [*sic*] life," indicating that she would choose to separate from the Applicant and remain in the United States with her children upon his removal. On appeal, the Applicant specifically asserts that his spouse "cannot relocate to Egypt because she is a caretaker to her two adolescent sons and aging parents, all of whom have deep roots in the US [*sic*]." Accordingly, we limit our analysis to whether the Applicant's spouse would experience extreme hardship upon separation.

The Applicant's spouse addresses financial and emotional hardship in her initial statement. She asserts that she lost an income of $2,200 per month when she was laid off from her hairdressing job as a result of the COVID-19 pandemic, and that, as of August 2020, the Applicant was the sole source of income for the family. The Applicant's spouse also asserts that she has been caring for her parents, who have had several health concerns. She further asserts that she is "having extreme anxiety" because of the

[1] On appeal, the Applicant specifically states, "I do take responsibility for all of the inconsistencies and incorrect statements I have made throughout my immigration applications over the years." Nevertheless, in a simultaneously filed combined motion to reopen and motion to reconsider, the Applicant requests the Director to reconsider the finding that his misrepresentations were willful. However, the appeal submission, the appeal brief, and other documents submitted in support of the appeal do not challenge the finding of inadmissibility.

Applicant's inadmissibility, because of the family separation and the need "to obtain welfare just to have food, and [they] could not pay our mortgage." The record contains an evaluation of the Applicant's spouse, performed by a social worker in November 2020, determining that her "presentation is consistent with Generalized Anxiety Disorder." The social worker's evaluation does not indicate that the Applicant's spouse requires any form of treatment for her anxiety; instead, the evaluation specifically "recommend[s] that she seek a comprehensive evaluation by a psychiatrist who can determine whether pharmacological interventions could help her" and "recommend[s] that she engage in psychotherapy." The record does not establish whether the Applicant's spouse sought a psychiatric evaluation or engaged in psychotherapy.

The Director acknowledged that the Applicant's spouse "would suffer some financial, emotional, and psychological hardship." However, the Director concluded that "the hardship does not appear unusual or beyond that which would normally be expected upon deportation." In particular, the Director observed that the Applicant's spouse's unemployment appears temporary and that she could resume working after the pandemic ends. The Director also indicated that the emotional and psychological hardship related to family separation in this case is a common result of removal.

On appeal, the Applicant reasserts that the factors addressed in his spouse's statement constitute extreme hardship. The Applicant also submits a new statement from his spouse, in which she reasserts the same factors addressed in the prior statement and adds that she was diagnosed with dysfunctional uterine bleeding in 2018. She also addresses the consequences of the Applicant's separation from their sons:

> [The Applicant] is the one who takes them to all of their activities. They love to watch soccer and basketball games together on TV. They love to watch movies together. Every season, we take our children on a small family trip together. [The Applicant] is the one that is soft with them and I have to be firm. [the Applicant] is the one who usually takes the children to their medical appointments because I have a phobia of doctors. Seeing my children lose their father in their everyday life would be absolutely devastating to me. My sons are now both teenagers and it is a critical time to have their father guide them in their lives in becoming successful and respectable young men.

The record does not establish the Applicant's spouse would experience extreme economic hardship upon separation. Although the Applicant is currently the only source of income for the family, the Director correctly observed that this hardship appears temporary. The record does not establish that the economic detriment and unemployment in this circumstance rises above the common results of removal. *See Matter of Pilch*, 21 I&N Dec. at 630-31.

The record also does not establish the Applicant's spouse would experience extreme emotional hardship upon separation. Although the Applicant's spouse was diagnosed with generalized anxiety disorder by a social worker, the record does not establish that the Applicant's spouse sought a clinical diagnosis from a psychiatrist as recommended by the social worker. The record also does not establish that the Applicant's spouse requires any form of treatment for her anxiety or any other emotional or

psychological issues.[2] In the absence of the recommended clinical psychiatric diagnosis and evidence of any particular treatment, and without more, the record does not establish that the anxiety related to the Applicant's inadmissibility rises above the common results of removal. *See id.*

Relatedly, the record does not establish that the consequences of the Applicant's separation from his sons would cause extreme hardship to the Applicant's spouse. The Applicant's spouse indicates that the Applicant would no longer be able to "take[] them to all of their activities" and medical appointments, watch sporting events and movies together, take a "small family trip together" periodically, and "guide them in their lives in becoming successful and respectable young men." Without more, the descriptions in the record of severing family ties does not rise above the common results of removal. *See id.*

The record also does not establish the Applicant's spouse would experience extreme medical hardship upon separation. The Applicant submits on appeal four pages of excerpts from two documents related to a 2018 medical emergency for the Applicant's spouse.[3] The documents indicate that the Applicant's spouse sought treatment for dysfunctional uterine bleeding. Although one of the documents lists several possible treatments that "will depend on the cause of the dysfunctional uterine bleeding," the record does not establish what treatment, if any, the Applicant's underwent in 2018. Because the record does not establish the treatment for the symptoms, whether that treatment is still ongoing, and how the treatment may require the Applicant's assistance, the record does not establish that the medical condition presents extreme hardship that rises above the common results of removal. *See id.*

The Applicant also references on appeal hardship manifested to him by way of his parents abroad, and the consequences of his separation from his U.S. citizen children.[4] Although non-qualifying relatives' hardships may affect a qualifying relative, our analysis is limited to how a qualifying relative may experience hardship, as established in the record, and discussed above. *See* section 212(i) of the Act.

Although we address each specific hardship factor identified on appeal separately, we have considered the issues in the aggregate, *Matter of Ige*, 20 I&N Dec. at 882, but find that they do not rise above the common results of removal. In summation, considering the record in its entirety, the Applicant has not established by a preponderance of the evidence that denial of the waiver would result in extreme hardship to his qualifying relative upon separation.

Because the record does not establish the Applicant's qualifying relative would experience extreme hardship upon separation, we need not address whether he warrants favorable discretion. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N

[2] The Applicant references the social worker's acknowledgement of the Applicant's spouse's two prior periods of depression, specifically following miscarriages. However, the social worker's evaluation does not indicate that the Applicant's spouse was depressed at the time of the evaluation, and it does not establish how depression following miscarriages relates to hardship the spouse may experience upon separation from the Applicant.

[3] One document consists of three pages numbered "3 of 11," "7 of 11," and "8 of 11," respectively. The other document consists of one page numbered "1 of 5." The documents, in their excerpted form, do not convey clear information about the medical emergency and the corresponding treatment.

[4] Specifically, the Applicant addresses how he experiences hardship in connection with his parents, not how his spouse experiences hardship in connection with his parents.

Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.