U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 20493203

Date: JUL. 27, 2022

Appeal of Lawrence, Massachusetts 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), for willful misrepresentation of a material fact. The Director of the Lawrence, Massachusetts Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the Applicant did not establish a qualifying relative will suffer extreme hardship if he is denied admission. The matter is now before us on appeal. On appeal, the Applicant submits a brief and asserts that the record establishes extreme hardship to his U.S. citizen spouse. We review the questions raised 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 LPR spouse or parent of the foreign national. If the foreign national demonstrates the existence of the required hardship, then they must also show that USCIS should favorably exercise its discretion. 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 an applicant's burden to establish eligibility for the requested benefit. *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Except where a different standard is specified by law, an applicant must prove eligibility for

the requested immigration benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The Director found the Applicant, a citizen of the Dominican Republic, inadmissible for willful misrepresentation of his marital status on his nonimmigrant visa application. The Applicant does not contest the finding of inadmissibility on appeal. The issues on appeal are whether the Applicant has established extreme hardship to his U.S. citizen spouse and whether he merits a waiver as a matter of discretion.

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. *See* 9 *USCIS Policy Manual* B.4(B), https://www.uscis.gov/policymanual (discussing, as guidance, extreme hardship upon separation or relocation).

In the present case, the Applicant's spouse indicates she is unable to move to the Dominican Republic and intends to remain in the United States if the waiver application is denied. The Applicant has submitted the following documentation in support of the waiver application and in response to the Director's notice of intent to deny: statements from the Applicant, his spouse, their landlord and friends, and his spouse's sister, mother, and employer; biographic and civil documents; employment and financial documentation; his spouse's psychological evaluation and a letter from her doctor; photographs; and country conditions information for the Dominican Republic.

The Applicant's spouse contends that she would experience emotional, medical, and financial hardship were she to remain in the United States without the Applicant, whom she married in 2018. The spouse indicates that the Applicant is emotionally supportive to her and her two children from a previous relationship, currently 13 and 9 years old; he actively takes part in their lives and assists with caregiving duties; and she relies on their combined income to pay their monthly expenses. She states that she suffers from insomnia because she is very worried about her spouse's situation, her migraines have been exacerbated by the stress, she has a hernia that will require surgery, her doctors are monitoring a heart murmur, and a mass was found in her brain.

The Director found that the Applicant did not submit sufficient evidence to establish that his spouse would suffer emotional, medical, or financial difficulties that would rise to the level of extreme hardship. The Director's decision describes the facts and analysis of the Applicant's case in great detail, and we incorporate it by reference here. On appeal, the Applicant has still not established that his spouse's hardships that would result from separation, considered individually and cumulatively, would go beyond the common results of inadmissibility or removal and rise to the level of extreme hardship.

Though the spouse's affidavit notes the Applicant provides her with emotional support and caregiving assistance for her children, it also indicates that family members live nearby and assist with childcare, including her mother, and her sister visits her home regularly. Concerning the spouse's medical conditions as noted in her affidavit, the record contains a letter from her doctor which addresses her hyperthyroidism but does not discuss any other medical conditions. The record also contains the spouse's psychological evaluation which states she suffers from depression and anxiety. However, the evidence does not indicate she is currently receiving treatment for her anxiety and depression. The record does not establish that the Applicant's spouse would lack emotional, medical, and financial support from her family members if she remained in the United States without the Applicant, or that she would be unable to obtain care from a professional should she need medical or psychological assistance.

While the submitted evidence documents the Applicant's income contributions to the household and we acknowledge the spouse may experience some financial difficulty without him, the record does not demonstrate that she would face a financial strain that would rise to the level of extreme hardship if he is denied admission. The evidence includes the Applicant's and his spouse's jointly filed 2018, 2019, and 2020 federal tax returns, in addition to W2 forms indicating what proportion of the reported joint income they individually earned. The most recent federal tax returns and W2 forms from 2020 reflect that the Applicant's spouse is the primary income earner of the household. Specifically, the documents indicate that their joint annual income was approximately $110,000, with the spouse earning approximately $66,000.

In conclusion, although the record demonstrates that the Applicant's spouse may experience emotional, medical, and financial difficulties due to separation from the Applicant, the totality of the evidence is insufficient to show that the hardship would rise beyond the common results of removal or inadmissibility if she remains in the United States. We also acknowledge that though the difficulties the spouse's children may experience without the Applicant may impact the spouse, the record does not establish that any hardship she would experience, even considered in the aggregate, would rise to the level of extreme hardship. As such, no purpose would be served in determining whether the Applicant merits a waiver as a matter of discretion.

The Applicant has the burden of proving eligibility for a waiver of inadmissibility. *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. at 806. Here, he has not met that burden.

ORDER: The appeal is dismissed.