



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 21290932

Date: JUNE 29, 2022

Appeal of Philadelphia, Pennsylvania Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant has applied to adjust status to that of a lawful permanent resident and 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 Philadelphia, Pennsylvania Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the record did not establish, as required, that denial of admission would result in extreme hardship to the Applicant's spouse, the only qualifying relative. The Applicant filed an appeal of the decision with this office. On appeal, the Applicant contends that the Director erred by not considering the evidence of hardship in its entirety. 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 noncitizen who, by fraud or willfully misrepresenting a material fact, seeks to procure admission into the United States 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 noncitizen. If the noncitizen demonstrates the existence of the required hardship, then they must also show they merit a favorable exercise of 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 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 issue on appeal is whether the Applicant has demonstrated that his spouse would experience extreme hardship. The Applicant does not contest the finding of inadmissibility, a finding supported by the record.¹ We have considered all the evidence in the record and conclude that it does not establish that the claimed hardships rise to the level of extreme hardship when considered both individually and cumulatively.

The Applicant must demonstrate that denial of the application would result in extreme hardship to a qualifying relative or qualifying relatives, in this case his 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. See 9 USCIS Policy Manual B.4(B), <https://www.uscis.gov/policymanual> (discussing, as guidance, extreme hardship upon separation and relocation). In the present case, the record contains no statement from the Applicant's spouse indicating she intends to remain in the United States or relocate to Nigeria if the 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.

The record reflects that the Applicant and his spouse were married in 2019, and they reside with the Applicant's spouse's adult son. The record also reflects that the Applicant's spouse has six U.S. citizen siblings. The Applicant asserts that he has a monthly income of \$3,520 and his spouse has a monthly income of \$2,000. He states that their expenses – rent and renter's insurance, utilities, internet, phone service, car insurance, and groceries – are approximately \$2,899 per month. He contends that without his financial support, his spouse would be unable to meet her household expenses or provide financial support to her mother who suffers from chronic obstructive pulmonary disease (COPD). He also states that his spouse suffers from gastritis, gastroesophageal reflux disease (GERD), and irritable bowel syndrome as well as abdominal pain. In support of the medical hardship claims, the Applicant submitted three medical appointment summaries indicating that his spouse has been diagnosed with and is being treated for acute gastritis, GERD, indigestion, and irritable bowel syndrome with constipation and diarrhea.

We find that the submitted documentation is insufficient to establish the claim of extreme hardship upon separation. With respect to financial hardship, the Applicant states that his spouse "would have to acquire \$900" to meet the couple's current monthly expenses on her own; however, the Applicant does not take into account the fact that his spouse's personal monthly budget would be less than the current monthly budget for two individuals. Further, even if the Applicant's spouse may have to lower her standard of living due to the loss of the Applicant's income, the record does not demonstrate that she would be unable to afford her primary expenses. See *Matter of Pilch*, supra at 631 (providing that

¹ The record reflects that in 2016, the Applicant procured a visitor's visa for the purpose of attending a conference in Florida. However, once he entered the United States, he did not attend the event and instead traveled to Maryland.

the inability to maintain one's present standard of living does not ordinarily amount to extreme hardship). The record also indicates that the Applicant and his spouse reside with her adult son, and the record does not demonstrate that he is unable to contribute to the household income. With respect to the Applicant's spouse's financial and medical support to her mother, we cannot determine the impact of a separation upon the Applicant's spouse's ability to assist her mother because the record does not contain any documentation regarding the Applicant's mother-in-law's finances or health status. The record also does not demonstrate that the Applicant's spouse's six U.S. citizen siblings would be unable to provide required assistance to their mother. Regarding medical hardship, while the submitted documentation lists the Applicant's spouse's diagnoses, the record does not contain documentation that provides further detail about the nature and severity of her conditions or indicate the level of assistance that is required, if any, to manage her conditions. With respect to emotional hardship, while we acknowledge the Applicant's spouse's statements regarding the difficulties that separation from the Applicant may cause her, the record does not contain any further detail about the impact of any emotional hardship the Applicant's spouse may experience in her daily life.

Based on the documentation in the record, we cannot conclude that, when considered in the aggregate, any financial, medical, and emotional 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.

The Applicant must establish that denial of the waiver application would result in extreme hardship to a qualifying relative upon both separation and relocation. As the Applicant has not established extreme hardship to his qualifying relative in the event of separation, we cannot conclude he has met this requirement. The waiver application will remain denied.

ORDER: The appeal is dismissed.