U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 15941020

Date: MAR. 7, 2022

Appeal of Mount Laurel, New Jersey Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of Peru currently residing in the United States, has applied to adjust status to that of a lawful permanent resident (LPR). A noncitizen seeking to be admitted to the United States as an immigrant or to adjust status must be "admissible" or receive a waiver of inadmissibility. The Applicant has been found inadmissible for fraud or misrepresentation under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i). He seeks a waiver of that inadmissibility under section 212(i) of the Act, 8 U.S.C. § 1182(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver if refusal of admission would result in extreme hardship to a qualifying relative or qualifying relatives.

The Director of the Mount Laurel, New Jersey Field Office dismissed the application, concluding that the record did not establish that the Applicant's qualifying relative would suffer extreme hardship if the waiver were denied, and furthermore that the Applicant did not merit a favorable exercise of discretion. On appeal, the Applicant argues that the Director did not properly consider the hardship factors presented and that a favorable exercise of discretion is warranted.

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

Any noncitizen who seeks to procure, sought to procure, or has procured a benefit under the Act by fraud or willfully misrepresenting a material fact is inadmissible. Section 212(a)(6)(C)(i) of the Act. Individuals found inadmissible under section 212(a)(6)(C)(i) of the Act may seek a discretionary waiver of inadmissibility under section 212(i) of the Act. This waiver is available if denial of admission would result in extreme hardship to a United States citizen or legal permanent resident spouse or parent.

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 his inadmissibility for fraud and misrepresentation. Instead, he seeks a waiver of inadmissibility under section 212(i) of the Act, stating that his wife will suffer extreme hardship if his application 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. 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. 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/legal-resources/policy-memoranda. In the present case, the record is unclear whether the Applicant's spouse would remain in the United States or relocate to Peru 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.

Although we are sympathetic to the circumstances of the Applicant and his family, we conclude that the record is insufficient to demonstrate that the qualifying relative's hardship would rise beyond the common results of removal or inadmissibility to the level of extreme hardship if the qualifying relative were to relocate to Peru.

The brief accompanying the appeal states that if the Applicant and his spouse were to move back to Peru, "it is likely that they would experience a significant decline in their standard of living (because) Peru's poverty level rose for the first time in almost two decades," and because the Applicant "has no business connections or work prospects in Peru." In her affidavit, the Applicant's spouse further states that moving back to Peru would be difficult due to high crime rates, lack of work for people over 50 years old, lack of medical insurance, and risk of kidnapping or assault.

To support this claim, the appeal includes an article stating that Peru's poverty rate is 22% and has stopped declining. However, this is insufficient to demonstrate that the qualifying relative, in particular, would suffer extreme hardship upon relocation to Peru. Beyond the affidavits, the appeal does not include any evidence that there is a lack of work for people over 50 or that the risk of violent crime would be especially high for the qualifying relative. The fact that a portion of Peruvians live in poverty does not demonstrate that the Applicant's spouse, in particular, would live in poverty if they relocated.

It is noted that the Applicant and his spouse were born and raised in Peru, lived there into adulthood, owned a home, and had their two daughters there. The evidence on appeal indicates that their families still live in Peru. Given her familiarity with the language and culture and the presence of family members in Peru, it is not apparent that the Applicant's spouse would suffer hardship that rises beyond the common results of removal or inadmissibility if she were to relocate.

According to the brief accompanying the appeal, the Applicant's spouse has tachycardia, asthma, sleep apnea, varicose veins, leg edema, urinary infections, depression, prediabetes, a vitamin D deficiency, anxiety, back pain, and high blood pressure. She also had a hysterectomy when cysts were found on her uterus, as well as knee and shoulder surgery due to past injuries. According to the attorney letter, if the Applicant's spouse relocated to Peru with him, she would not be able to receive adequate healthcare or prescription medication.

To support this claim, the appeal includes articles about health care disparities and problems with access to prescription medications in Peru. We acknowledge that the Applicant's spouse would experience difficulty upon relocating to Peru. However, this does not suffice to demonstrate that if the Applicant's spouse relocated, she would suffer hardship that is atypical for those in her situation. While the record indicates that she has various medical conditions, it does not specifically establish that she would be unable to find suitable medical treatment or medication in Peru. The fact that medical disparities exist in Peru does not suffice to demonstrate that the Applicant's spouse, specifically, would not be able to receive adequate medical treatment.

Regarding the couple's children, although their hardship may be considered to the extent that it causes hardship for the Applicant's spouse, the only qualifying relative in this case, we note that the couple's children are adults and employed full-time. While they do have medical conditions of their own, the evidence of record does not suffice to indicate that upon their mother's relocation, their circumstances would cause her to suffer hardship beyond what is usual in cases of inadmissibility or removal.

III. CONCLUSION

As noted above, the Applicant must establish that denial of the waiver application would result in extreme hardship to his spouse both upon separation and upon relocation to Peru, where his spouse was born and raised. As the Applicant has not established extreme hardship to his spouse in the event of relocation, we cannot conclude he has met this requirement. Because the Applicant has not demonstrated extreme hardship to a qualifying relative if he is denied admission, we need not consider whether he merits a waiver in the exercise of discretion. The waiver application will therefore remain denied.

ORDER: The appeal is dismissed.