U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 23472905

Date: DEC. 7, 2022

Appeal of Newark, New Jersey Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of Pakistan, has applied to adjust status to that of a lawful permanent resident (LPR) and 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.

The Director of the Newark, New Jersey Field Office denied the waiver application, concluding that the Applicant did not establish extreme hardship to his qualifying relative. On appeal, the Applicant submits additional evidence and contends that his spouse and children need him to be with them.

The Administrative Appeals Office reviews the questions in this matter de novo. *Matter of Christo's* Inc., 26 I&N Dec. 537, 537 n.2 (AAO 2015). In these proceedings, it is the applicant's burden to establish eligibility for the requested benefit by a preponderance of evidence. Section 291 of the Act, 8 U.S.C. § 1361; Matter of Chawathe, 25 I&N Dec. 369, 375 (AAO 2010). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), renders inadmissible any 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, admission into the United States, or other benefit provided under the Act. Section 212(i) of the Act provides for 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 noncitizen.

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 was found inadmissible for fraud or misrepresentation under section 212(a)(6)(C)(i) of the Act for entering the United States using a fraudulent passport and visa. The Applicant does not contest this determination on appeal, and it is supported by the record. Thus, the remaining issues on appeal are whether the Applicant has demonstrated that his qualifying relative will suffer extreme hardship if the inadmissibility is not waived, and if so, whether he merits a waiver as a matter of discretion.

The Applicant must demonstrate that denial of the application would result in extreme hardship to a qualifying relative or qualifying relatives, in this case, the Applicant's LPR 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. 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)). 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 id. In this case, the record indicates that the Applicant's spouse intends to remain in the United States with their three children. The Applicant must, therefore, establish that if he is denied admission, his qualifying relative would experience extreme hardship upon separation.

Regarding financial hardship, the Applicant's spouse stated that the Applicant provides for the family and pays for their three daughters' education. The Applicant's spouse further asserted that she is unable to run the household on her own because of her lack of formal education and inability to speak English. The Director found that the record did not have sufficient evidence to establish how much income the Applicant earned in the previous year or how much taxes he paid. The Director determined that the evidence in the record was insufficient to demonstrate that the Applicant's spouse would be unable to meet her financial obligations without the Applicant because the Applicant did not provide any financial documents.

On appeal, the Applicant's spouse states that the Applicant has always been the breadwinner for the family, and as a housewife, she cooks, cleans, and cares for their children. The Applicant's spouse further states that she has never worked nor finished school, she does not know much about anything besides cooking or cleaning, and without the Applicant's income, she would not be able to afford anything for their daily necessities. The Applicant's spouse also states that her children cannot financially support themselves. The Applicant submits his social security statement, which shows that he has worked in the United States since 1981 and that he earned $20,400 in 2020.

While the Applicant states that he is the only breadwinner for the family, he did not provide sufficient documentation to support this claim. The Applicant did not provide documentation of his total household expenditures, his financial contributions, or the household income, including the income of the Applicant's eldest daughter who now works as a teacher. Without evidence of the Applicant's financial landscape, we are unable to determine the level of hardship that the Applicant's spouse would experience in the event of separation. Furthermore, it has not been established that the Applicant who appears to be a skilled auto mechanic would be unable to contribute to the family's income from a location outside the United States. It also has not been established that the Applicant's spouse would be unable to work to help support the family or adjust to the new circumstances. The evidence submitted is insufficient to show that financial hardship would rise to the level of extreme if the Applicant's spouse remained in the United States while the Applicant resided abroad.

Regarding medical hardship, the Applicant's spouse stated that as a chronic blood pressure patient, her levels are constantly being monitored. The Applicant's spouse also stated that due to her high blood pressure and stress, it is very difficult for her to sleep at night. The Applicant submitted a letter from a medical doctor, which states that the Applicant's spouse was seen by the doctor for treatment of hypertension, hyperlipidemia, chest pain, and anxiety with panic attacks. The doctor also stated that the Applicant's spouse depends on the Applicant for financial, medical, and psychological support. The Director found that the letter from the medical doctor fell short describing the nature and frequency of the Applicant's spouse's treatment or that she is required to be on a special diet and determined that the evidence in the record was insufficient to demonstrate that the Applicant's spouse's medical condition would result in extreme hardship.

On appeal, the Applicant's spouse states that the Applicant takes her to her medical appointments and pays for her treatment. The Applicant submits a letter from the same medical doctor, which states that the Applicant's spouse is under the doctor's care for treatment of hypertension, hyperlipidemia, chest pain, and anxiety with panic attacks. The doctor also states that the Applicant's spouse will need ongoing treatment and support from a medical specialist and psychological and financial support from the Applicant. The Applicant also submits a letter from another medical doctor, which states that the Applicant's spouse visited his office with symptoms of shortness of breath, chest pain, heart palpitation, and severe anxiety. The doctor also states that the Applicant's spouse is currently on medication for hypertension. The Applicant also submits his spouse's medical expense summary for her pharmacy orders, which show that she was prescribed medications for high blood pressure, high cholesterol, and anxiety.

While the doctor states that the Applicant's spouse needs psychological and financial support from the Applicant, the documents provided do not indicate what role he plays in his spouse's medical treatment for high blood pressure, high cholesterol, and anxiety. The record does not contain sufficient medical documentation to establish that the Applicant's spouse would suffer extreme medical hardship without the Applicant. Although the Applicant's spouse is currently on medication for high blood pressure and high cholesterol, the evidence does not sufficiently establish that she relies on the Applicant for her treatment and that the Applicant's absence would impose an extreme hardship on his spouse.

Regarding emotional hardship, the Applicant submitted a psychological evaluation report from a licensed psychologist, which states that the Applicant's spouse reported that when she thinks of the Applicant becoming separated from the family, she has trouble falling asleep and wakes up during the

night, her appetite is poor, and she has difficulty concentrating. The psychologist also stated that the Applicant's spouse is sad, anxious, and has crying spells. The Director found that there was insufficient evidence that the cumulative effect of the emotional hardship would rise to the level of extreme. The Director concluded that the evidence in the record did not show that the Applicant's spouse would suffer emotional hardship beyond that is normally associated with family separation.

On appeal, the Applicant submits a second psychological evaluation report from the same psychologist, which states that the Applicant's spouse revealed more anxiety and depressive symptoms during the second evaluation than the initial evaluation four months ago. The report indicates that the Applicant's spouse was diagnosed with adjustment disorder with mixed anxiety and depressed mood. The Applicant also submits a recent medical record of his spouse, which indicates that the Applicant's spouse was seen by a medical doctor for annual physical examination. This medical record indicates that the Applicant's spouse has a history of hypertension and hyperlipidemic but denied any depressive episodes or suicidal ideation, any pain, headaches, or weakness. This medical record also indicates that the Applicant's spouse's mood and affect is normal.

Although the submitted psychological evaluation reports are based on clinical interviews of the Applicant's spouse, the record does not reflect an ongoing relationship between a mental health professional and the Applicant's spouse. The record does not contain any treatment plan for the spouse's diagnosis, ongoing sessions with the psychologist, or sufficient evidence to indicate whether the spouse needs daily assistance due to her diagnosis. The evidence in the record does not sufficiently establish that the emotional effects of separation from the Applicant would be more serious than the type of hardship normally suffered when one is faced with the prospect of separation from one's spouse.

Regarding other personal hardship relating to their three daughters, the Applicant's spouse asserted that if she is placed in charge of the household, their daughters will suffer. The Applicant's spouse further stated that their two older daughters (ages 23 and 23) are still completing their education and that their youngest daughter (age 13) is very attached to the Applicant. The Director concluded that there was insufficient evidence showing how the Applicant's departure from the United States would have an impact on the cognitive, social, or emotional well-being of the Applicant's spouse who is left to care for their three children.

On appeal, the Applicant submits a letter from a social worker at a school, which states that the Applicant's youngest daughter receives special education services at her middle school. The Applicant also submits information on his daughter's individualized education program from her middle school, which indicates that his daughter participated in an initial child study evaluation due to academic concerns and that she is eligible for special education and related services at the school. The Applicant also submits a psychiatric evaluation report, which states that the Applicant's youngest daughter reported increased anxiety, depression, and difficulty sleeping at night because she is afraid that she might not see her father again. The report indicates that the Applicant's youngest daughter was diagnosed with generalized anxiety disorder, but the Applicant declined the need for psychopharmacological treatment option and stated that his daughter will consider therapy sessions first before psychopharmacological treatment.

For the purposes of a waiver of the inadmissibility, a qualifying relative is the U.S. citizen or LPR spouse or parent. The Applicant's children are not qualifying relatives. However, we consider any hardship that the qualifying relative may experience as a result of hardships to other nonqualifying relatives. Here, the record reflects that the Applicant's eldest daughter currently works as a teacher and plans to pursue a master's degree, that his second daughter is studying at a college to be a dental hygienist, and that his youngest daughter is receiving individualized education program at her middle school due to academic concerns. It has not been established that the Applicant's daughters rely on the Applicant's presence for their educational or career opportunities and that the Applicant's absence would impose an extreme hardship on his spouse.

As noted above, the Applicant must establish that denial of the waiver application would result in extreme hardship to his spouse upon separation. While we are sympathetic to the family's circumstances, considering all the evidence in its totality, the record remains insufficient to establish that the aggregated financial, medical, psychological, emotional, educational, and other personal hardships of separation would be unusual or atypical to the extent that they rise to the level of extreme hardship.

As the Applicant has not established extreme hardship to his spouse in the event of separation, we cannot conclude that he has met this requirement. Because the Applicant has not demonstrated extreme hardship to his qualifying relative if he is denied admission to the United States, we need not consider whether he merits a waiver in the exercise of discretion. Therefore, the waiver application will remain denied.

III. CONCLUSION

The Applicant has not established his statutory eligibility for the requested waiver under section 212(i) of the Act. Accordingly, the waiver application will remain denied.

ORDER: The appeal is dismissed.