U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 20930583

Date: JUN. 21, 2022

Appeal of Lawrence, Massachusetts 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 Lawrence, Massachusetts Field Office denied the application, finding that the Applicant had not established that denial of his admission to the United States would result in extreme hardship to his qualifying relative.

On appeal, the Applicant contends he has established that his spouse will experience extreme hardship due to his inadmissibility.

The Applicant bears the burden of proof to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). This office reviews the questions in this matter *de novo*. *See Matter of Christo's Inc*., 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, as explained below, we will remand the matter to the Director for the entry of a new decision.

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 discretionary waiver of this inadmissibility if refusal of admission would result in extreme hardship to the United States citizen or lawful permanent resident spouse or parent of the foreign national. 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).

II. ANALYSIS

The Applicant, a native and citizen of El Salvador, was found inadmissible under section 212(a)(6)(C)(i) of the Act, for fraud or willful misrepresentation. The Applicant does not contest inadmissibility on appeal. The sole issue on appeal therefore is whether the Applicant has established extreme hardship to a qualifying relative. We have considered all the evidence in the record, including the documentation submitted on appeal, and conclude that the claimed hardships to the Applicant's U.S. citizen spouse rise to the level of extreme hardship when considered both individually and cumulatively.

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 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/policymanual. The Applicant's spouse submitted a declaration establishing her intent to relocate abroad if the Applicant is denied admission. The Applicant must therefore establish that if he is denied admission, his qualifying relative would experience extreme hardship upon relocation.

The Applicant's spouse asserts that she will experience emotional, medical, and financial hardships were she to relocate to El Salvador to reside with the Applicant. She explains that were she to move abroad, she would have to leave her parents and her four siblings. In addition, she said that she lives in the same town as her parents and provides them with support since her siblings live further away. She explained that she arranges medical appointments for her mother and drives her to them since her mother does not drive. The Applicant's spouse said that she would suffer emotional hardship since her daughter will be devastated if she relocated because she would be taken away from her family, her pets, her home, and all her activities and move to a country she does not know. She also stated that as a result of her spouse's immigration issues and miscarrying a child, her depression and anxiety have worsened, and she fears she would not be able to obtain effective and affordable treatment in El Salvador. The Applicant's spouse also contends that she is gainfully employed as a medical billing/credentialing specialist but were she to relocate abroad, she would suffer career and professional disruption and therefore economic decline. She contends that the country conditions indicate a high unemployment rate in El Salvador, and it is not clear if she could find a similar position in the health care industry. She states that she would fall behind on her debts and her medical insurance coverage would end. The Applicant's spouse also stated that she was accepted to the legal studies degree program at [redacted] Community College, and if she were to relocate she will not be able to pursue this educational program. The Applicant's spouse stated that she owns a home that she

will be forced to sell if she relocates. In addition, she explained that she started a new company with the Applicant and if they relocate, they will lose the company and the investment they made in starting the company. The Applicant's spouse explains that she has built her life and career in the United States and were she to relocate to El Salvador, she would have to start all over and she would not have any support as her husband left El Salvador when he was 14 and they do not have family ties that can help them. Finally, the Applicant's spouse asserts that country conditions for El Salvador indicate that the country is dangerous and lacks sufficient mental healthcare, and she fears for her safety and well-being. Further, the Applicant indicated that the U.S. Department of State issued a level 3 warning for El Salvador.

In support, the Applicant has submitted documentation of his spouse's gainful employment in the United States, earning over $57,000 as a medical biller. The Applicant also submitted documentation of the new company owned by the Applicant and his spouse. In addition, he submitted documentation regarding the problematic economic condition in El Salvador with very high unemployment. The Applicant has also provided medical and mental health documentation for his spouse, establishing her need for monitoring and treatment by medical professionals familiar with her conditions, including depression and anxiety, and treatment plan. In addition, the record contains documentation regarding the problematic country conditions in El Salvador.

We find that the new evidence submitted by the Applicant on appeal adequately addresses the insufficiencies identified by the Director to establish, when considered alongside previously submitted evidence, that the Applicant's spouse would experience hardship upon relocation with the Applicant that, when considered in the aggregate, rises to the level of extreme.

The Applicant has established extreme hardship to a qualifying relative for purposes of a waiver for fraud or willful misrepresentation. As the Director did not previously consider whether the Applicant has established that he merits a favorable exercise of discretion, we find it appropriate to remand the record for the Director to determine in the first instance whether the Applicant merits a favorable exercise of discretion.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.