U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 22740684

Date: OCT. 14, 2022

Appeal of Mount Laurel 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 (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. U.S. Citizenship and Immigration Services (USCIS) may grant a discretionary waiver under this provision if refusal of admission would result in extreme hardship to a qualifying relative or qualifying relatives. The Mount Laurel Field Office Director denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), to waive their inadmissibility. The Director concluded the Applicant did not establish extreme hardship to her U.S. citizen spouse, her only qualifying relative, and decided that discretion should not be exercised in her favor.

The matter is now before us on appeal. The Applicant bears the burden of demonstrating eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions 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

A 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, 8 U.S.C. § 1182(a)(6)(C)(i). There is a discretionary waiver of this inadmissibility ground if refusal of admission would result in extreme hardship to the U.S. citizen or lawful permanent resident spouse or parent of the foreign national. Section 212(i) of the Act. If the foreign national demonstrates the existence of the required hardship, then they must also show they merit a favorable exercise of discretion. *Id.*

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).

Once the foreign national demonstrates the requisite extreme hardship, they must show that USCIS should favorably exercise its discretion and grant the waiver. Section 212(i) of the Act. The burden is on the foreign national to establish that a waiver of inadmissibility is warranted in the exercise of discretion. *Matter of Mendez-Moralez,* 21 I&N 296, 299 (BIA 1996).

II. ANALYSIS

The Applicant came to the United States in 2008. Although she has offered varying accounts relating to her entry into the country, accompanying her motions she offered evidence supporting her account that she entered the country using false documents and she was granted admission on a nonimmigrant visitor's visa. She subsequently filed for asylum and withdrew that application, she was denied relief under the Convention Against Torture, but was granted withholding of removal. Her spouse subsequently filed a relative petition on the Applicant's behalf that USCIS approved in 2010. In 2016, an Immigration Judge terminated her removal proceedings to allow the Applicant to seek adjustment of status before USCIS.

The Applicant has filed multiple adjustment of status and waiver applications, each that were denied, and she filed the latest waiver application 2019. The waiver application is now before us on appeal. The qualifying relative is the Applicant's spouse (H-).[1] Although their children are not qualifying relatives within this application filing, the couple has two U.S. citizen children born in 2005 and 2015. On appeal, the Applicant claims H- would experience extreme hardship in the form of financial, medical, and emotional or mental health difficulties. Aside from disagreeing with the ultimate outcome of the Director's decision, the Applicant does not explain how the Director erred. And while she explains the hardships the family may endure, none are beyond what is expected when families are separated because of a removal from the United States.

As it relates to separation from H-, the Applicant describes how he would be forced to deal with the parental duties while also being responsible for his employment, maintaining their home, cooking, paying bills, etc. and he couldn't afford to hire professionals and tutors to supplement the Applicant's performance of those daily tasks. She also claims H- would have to deal with the emotional difficulties of a spouse and children who have to live without the Applicant's presence. She further notes H- and their children couldn't afford frequent trips to China to visit her.

The Director noted the lack of supporting evidence to demonstrate the degree of financial hardships H- would experience in her absence. The appeal brief makes no mention of any material the Director failed to consider, nor does it offer a description of the financial documents and how that material supports the Applicant's financial hardship claims. Among other materials, the record contains multiple years of the couple's tax related documents, and items related to their home's value and

[1] We use initials to protect the identities of individuals.

mortgage. The appeal does not assert any financial hardship upon H-'s separation from the Applicant if she were removed from the United States.

H- experiences sleep irregularities, high blood pressure, and anxiety. The Applicant provided a Treatment Summary from a clinical psychologist both in 2019 and a new version on appeal from 2021. Except for the content related to the COVID-19 pandemic, both documents are essentially the same indicating H- is being treated for major depressive disorder. The new Treatment Summary on appeal does not contain any significant changes from the version the Director considered and found to contain insufficient details to support the Applicant's hardship claims. We too determine that although H- struggles with his spouse's immigration situation, the record does not adequately establish the mental adversities that he may experience would amount to extreme hardship were he to be separated from her. Nor would the adversity qualify as extreme hardship that H- would face essentially as a single parent of two children; one who is nearly of legal adulthood age who could assist with her younger sister's care.

Were the family to relocate with the Applicant, she states it would be difficult for H- to find a decent job, the medical services in China are inferior to those in the United States, the family would suffer financial difficulties because the children are U.S. citizens and not eligible for social welfare or public assistance in China, and the children do not speak Mandarin and would be well behind their schoolmates.

Again, the Director noted the lack of probative evidence to support the claims of hardship were the family to relocate with the Applicant. Lacking from the Applicant's appeal are relevant arguments and materials relating to the availability in China of the type of medical and psychological treatment H- has been undergoing in the United States, as well as evidence to support other pertinent claims about the situation in China. While we consider the Applicant's claims, they are insufficient to demonstrate the measure of the dire straits she states the family would encounter if they all would relocate with her to China.

Furthermore, even considering the totality of the hardships the Applicant claims in this filing, we conclude the financial, psychological, and emotional hardships to the Applicant's spouse upon separation from her or from relocating to China—when considered in the aggregate—are those that are expected, and she has not demonstrated these hardships rise to the requisite level of extreme. *See Pilch*, 21 I&N Dec. at 630–31. The Applicant's spouse is not of an advanced age such that he could not adapt to the changes he might experience, nor is his physical or mental health so fragile that the result would be detrimental to his well-being. Although we sympathize with the difficulties it appears the Applicant and her spouse will experience, she has not satisfied the mandatory standard required in this case.

As the Applicant has not demonstrated her qualifying relative would experience extreme hardship, no purpose would be served in addressing her separate arguments that she merits a waiver as a matter of discretion. Because our identified basis for the waiver application's denial is dispositive of this appeal, we will not address and we reserve the Applicant's remaining appellate arguments relating to discretion. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (finding it unnecessary to analyze additional grounds when another independent issue is dispositive of the appeal); *see also Matter of*

D-L-S-, 28 I&N Dec. 568, 576–77 n.10 (BIA 2022) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

In short, we conclude the record does not establish extreme hardship to the U.S. citizen spouse if the Applicant is denied admission.

ORDER: The appeal is dismissed.