U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 22198360

Date: SEP. 13, 2022

Appeal of San Antonio, Texas 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 or willful misrepresentation. The Director of the San Antonio, Texas Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the record did not establish that the Applicant's qualifying relative, her LPR mother, would experience extreme hardship if she were denied the waiver. The matter is now before us on appeal. On appeal, the Applicant submits a letter from her attorney and contends that she is not inadmissible. 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). Upon *de novo* review, we will remand the matter to the Director for further proceedings consistent with this decision.

I. LAW

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, 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 if refusal of admission would result in extreme hardship to the United States citizen or lawful permanent resident spouse or parent of the noncitizen. Section 212(i) of the Act. 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

Prior to the Applicant's current application for adjustment of status through her U.S. citizen son, she attempted to obtain LPR status through her U.S. citizen daughter. That application was denied because her daughter did not establish that she was a U.S. citizen. In the instant application, the Director determined that based on the record, the Applicant was inadmissible under section 212(a)(6)(C)(i) of the Act for three reasons. First, during her adjustment of status interview on February 8, 2000, the Applicant provided a sworn statement that her daughter was born in [redacted] Mexico, and her true date of birth was [redacted] 1975, not [redacted] 1975. Second, on October 15, 2004, the Applicant

provided a sworn statement during an adjustment of status interview indicating that her spouse obtained a fraudulent U.S. birth certificate for her daughter. Third, on November 4, 2021, during the Applicant's adjustment interview for her current Form I-485, the Applicant stated that her daughter was born in the United States with a help of a mid-wife and an immigration officer forced her to sign papers in 2000 stating that her daughter was born in Mexico. The Applicant stated that the officer threatened that her children would be taken away from her if she refused to sign the untruthful statement. The Director concluded that the Applicant misrepresented material facts based on her conflicting statements over several years and was therefore inadmissible. The Director then denied the waiver application, further concluding that the Applicant did not establish that qualifying relative, her LPR mother, would experience extreme hardship if she were denied the waiver.

On appeal, the Applicant for the first time contests the finding of inadmissibility, asserting that any misrepresentation she made would not trigger inadmissibility under section 212(a)(6)(C)(i) of the Act. In this regard, the Applicant contends that her statements regarding her daughter's date of birth and place of birth were false and coerced. She further argues that her daughter was born in the United States, and she did not provide any inaccurate information in statements to procure a benefit.[1] Lastly, she claims that her inaccurate statements were not material because they neither affected the decision of the immigration official nor did it tend to cut off a line of inquiry.

Upon *de novo* review, the Applicant has established by a preponderance of the evidence that she is not inadmissible under section 212(a)(6)(C)(i) of the Act. With respect to materiality, a misrepresentation is material under section 212(a)(6)(C)(i) of the Act when it tends to shut off a line of inquiry that is relevant to the noncitizen's admissibility and that would predictably have disclosed other facts relevant to their eligibility for a visa, other documentation, or admission to the United States. *Matter of D-R-*, 27 I&N Dec. 105, 113 (BIA 2017). However, if the line of inquiry shut off would not have resulted in the denial of the benefit, then the misrepresentation is harmless. *Matter of S- and B-C-*, 9 I&N Dec. 436, 449 (A.G. 1961). Here, the Applicant's inconsistent statements about her daughter being born in Mexico, that she registered her daughter's birth in Mexico, and that her former husband obtained a false U.S. birth certificate for her daughter did not garner her a favorable decision from the immigration officials. Additionally, the record does not reflect that the Applicant's misrepresentations concerning the birthplace of her daughter shut off a line of inquiry which may have properly resulted in a denial of her adjustment of status application. By stating that her daughter was a native and citizen of Mexico, the Applicant would not have obtained immigration benefits; rather, the contrary result of such a statement would serve to deny her immigration benefits.

In the end, while we do not excuse the Applicant's untruthful statements, they do not rise to the level of fraud or misrepresentation as contemplated by the Act. Consequently, she is not inadmissible under section 212(a)(6)(C)(i) of the Act, and no purpose would be served in addressing the Applicant's extreme hardship claim, and ultimately whether an exercise of discretion is warranted.

[1] A review of the record indicates that on December 2, 2021, the Director issued a notice of intent to deny (NOID). The Director acknowledged that the Applicant responded to the NOID on December 30, 2021, but did not address the evidence submitted. Among other documents, the Applicant submitted a copy of her daughter's U.S. Passport Card issued on February 18, 2011, and valid until February 17, 2021, and her birth certificate issued by the City of [redacted], Texas. The birth certificate and the Passport Card establish that the Applicant's daughter is a U.S. citizen.

ORDER: The Director's decision is withdrawn, and the matter is remanded for further proceedings consistent with the foregoing opinion.