U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 22280114

Date: SEP. 14, 2022

Appeal of Newark, New Jersey Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant seeks a waiver of inadmissibility under section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i), for willful misrepresentation of a material fact. The Director of the Newark, New Jersey Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the Applicant did not establish a qualifying relative will suffer extreme hardship if she were refused admission. The matter is now before us on appeal. On appeal, the Applicant asserts that the record establishes extreme hardship to her U.S. citizen spouse. We review the questions raised 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

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. There is 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. If the noncitizen demonstrates the existence of the required hardship, then they must also show that USCIS should favorably exercise its discretion. 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). In these proceedings, it is an applicant's burden to establish eligibility for the requested benefit. *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Except where a different standard is specified by law, an applicant must prove eligibility for

the requested immigration benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The Director found the Applicant, a citizen of Mali, inadmissible under section 212(a)(6)(C)(i) of the Act for fraud or misrepresentation. Specifically, the Applicant entered the United States in 2001 with a fraudulent passport. The Applicant does not contest the finding of inadmissibility on appeal. The issues on appeal are whether the Applicant has established extreme hardship to her U.S. citizen spouse and whether she merits a waiver as a matter of discretion.

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 an applicant's evidence establishes 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. *See* 9 *USCIS Policy Manual* B.4(B), https://www.uscis.gov/policymanual (discussing, as guidance, extreme hardship upon separation or relocation).

In the present case, the Applicant's spouse indicates he is unable to move to Mali and intends to remain in the United States if the waiver application is denied. The Applicant has submitted the following documentation in support of the waiver application: her spouse's affidavit, a letter from her spouse's doctor, and employment and financial documentation.

The Applicant's spouse contends that he would experience emotional, psychological, and medical hardship were he to remain in the United States without the Applicant, whom he married in 2013. The spouse indicates that the Applicant is emotionally supportive to him and their two children from the Applicant's previous relationship, currently 18 and 16 years old; he is terrified at the thought of a life without her; and her absence will have a tremendous negative effect on him mentally and emotionally. Her spouse states that he is under medical care due to his spinal radiculopathy, chronic knee pain, and uncontrolled hypertension; at times his condition is so debilitating that he cannot get out of bed; and the Applicant helps him by providing his medication, cooking for him, bathing him, taking him to medical appointments, caring for their children, and managing the household.

The Director found that the Applicant did not submit sufficient evidence to establish that her spouse would suffer emotional, psychological, medical, or financial difficulties that would rise to the level of extreme hardship. The Director's decision describes the facts and analysis of the Applicant's case in detail and we incorporate it by reference here. On appeal, the Applicant does not submit additional evidence and asserts that her spouse's affidavit describes in detail his medical conditions and the hardship he would suffer in her absence. She contends that this is further corroborated by the previously submitted medical evidence and argues the record establishes that the hardship her spouse would suffer in regard to his health rises to the level of extreme.

Upon *de novo* review, the Applicant has still not established that her spouse's hardships that would result from separation, considered individually and cumulatively, would go beyond the common results of inadmissibility or removal and rise to the level of extreme hardship. Though the spouse's affidavit notes the Applicant provides him with emotional, psychological, and medical support and she cares for their children, the record lacks sufficient information and supporting evidence concerning her spouse's claimed hardship. The letter from her spouse's doctor lists her spouse's medications and indicates he is under care for chronic back and knee pain due to a vehicle accident years ago that resulted in spinal radiculopathy and he relies on the Applicant for medical care, therapy, and financial and emotional support. However, the doctor's letter does not discuss whether her spouse has been able to maintain employment or manage household responsibilities. Further, the evidence does not contain her spouse's medical records to provide further information about his health condition and does not demonstrate that her spouse would be unable to obtain adequate medical care in her absence.

Concerning any financial hardship, we note that her spouse's doctor asserts the Applicant provides her spouse with financial support; however, her spouse does not describe any financial hardship in his personal affidavit. While the Applicant submitted several bills and her employment and tax documentation, the record lacks sufficient information or documentation to demonstrate the specific financial impact of her absence. The Applicant has not provided a detailed explanation or supporting documentation regarding any income contributions from her spouse, and the record does not establish their household's regular income amounts, monthly expenses, or other financial obligations. In addition, though her spouse states that the Applicant is an amazing mother and he does not want their children to be raised in a broken home, he does not discuss in detail what difficulties their children may experience without her and how that may impact the spouse.

In conclusion, although the record demonstrates that the Applicant's spouse may experience emotional, psychological, medical, and financial difficulties due to separation from the Applicant, the totality of the evidence is insufficient to show that the hardship would rise beyond the common results of removal or inadmissibility. We also acknowledge that though the difficulties their children may experience without the Applicant may impact the spouse, the record does not establish that any hardship her spouse would experience, even considered in the aggregate, would rise to the level of extreme hardship. As such, no purpose would be served in determining whether the Applicant merits a waiver as a matter of discretion.

The Applicant has the burden of proving eligibility for a waiver of inadmissibility. *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. at 806. Here, she has not met that burden.

ORDER: The appeal is dismissed.