U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 25462986

Date: APR. 10, 2023

Motion on Administrative Appeals Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, who was determined to be inadmissible for fraud or misrepresentation under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), seeks a waiver of this inadmissibility under section 212(i) of the Act, 8 U.S.C. § 1182(i), which requires a showing that his refusal of admission would result in extreme hardship to a qualifying relative or qualifying relatives. The Director of the Hartford, Connecticut Field Office, denied the application, concluding that the Applicant did not establish that the only qualifying relative, his lawful permanent resident (LPR) spouse, would experience extreme hardship if the Applicant is denied admission. We subsequently dismissed the Applicant's appeal, concluding that he did not establish the requisite hardship to his LPR spouse. The Applicant now files a motion to reconsider our previous decision.

A motion to reconsider must show that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceeding at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that meets these requirements and establishes eligibility for the benefit sought. Upon review, the motion will be dismissed.

In our previous decision, incorporated here by reference, we determined that the record did not clearly indicate whether the Applicant's spouse intends to remain in the United States or relocate to China with the Applicant if the waiver request is denied, and therefore he must show that if he is denied admission, his LPR spouse would suffer extreme hardship both upon separation and relocation. *See generally* 9 USCIS Policy Manual B.4(B), https://www.uscis.gov/legal-resources/policy-memoranda. We dismissed the appeal because the hardship evidence did not establish that the Applicant's spouse would experience extreme hardship upon separation, and consequently, the Applicant could not demonstrate the requisite hardship to his spouse both upon separation and relocation, as required.[1]

In dismissing the Applicant's appeal, we addressed the initial hardship evidence as well as the supplemental documents he submitted to us on appeal and concluded that the overall evidence of hardship based on medical, financial, and emotional difficulties to his LPR spouse did not individually or cumulatively establish extreme hardship. We determined that the spouse's medical documentation, including a February 2021 psychiatric evaluation report with missing pages, a June 2021 follow-up

[1] The Applicant on appeal did not contest the Director's inadmissibility determination under 212(a)(6)(C)(i) of the Act, a finding supported by the record, nor does he contest this issue on his instant motion to reconsider now before us.

report as well as the remaining medical documents, did not demonstrate that the spouse would experience extreme hardship based on the medical conditions as indicated in these reports—inter alia, major depressive disorder, asthma, and gastrointestinal distress. We also determined that the record lacked detailed evidence as to the extent to which the spouse relies on the Applicant in carrying out her ability to perform daily tasks, including social functioning, ability to work, and managing her physical and mental health conditions, and that the medical evidence did not delineate her treatment plan or prognoses. We further determined that the record did not show that the spouse would be unable to independently meet financial obligations without the Applicant's presence, particularly as the record indicated that she has worked in the past and they were able to send their two adult children through college. In addition, there was no evidence that the Applicant could not continue to maintain emotional ties and provide financial support from China, where he was born and raised. We also noted that the Applicant did not submit a statement in support of his waiver request, and ultimately concluded that he did not establish extreme hardship to his LPR spouse upon separation. We did not reach whether his waiver request warrants a favorable exercise of discretion, as doing so would serve no purpose.

On motion, the Applicant submits a brief that is nearly identical to the appeal brief he previously submitted to us, and broadly asserts that our dismissal of his appeal was arbitrary, lacked a rational explanation, departed from established procedures, and relied on an impermissible basis. However, apart from making these general assertions in a conclusive manner, the Applicant does not clearly identify any incorrect application of law or policy in our previous decision or specify how we erred based on the evidence before us at the time of our decision. 8 C.F.R. § 103.5(a)(3). Although he also generally states that we should have determined that his spouse would suffer extreme hardship upon separation, in support of this assertion, he merely reiterates the same caselaw referenced in his appeal brief, which we fully considered previously, along with the documents he submitted on appeal.

The Applicant also asserts, as he did similarly in his appeal brief to us alleging Director error, that we erred in failing to consider whether his waiver request warrants a favorable exercise of discretion. However, as stated, and as we specifically noted in our prior decision, we were not required to reach the issue of discretion where the Applicant did not meet his burden to establish the requisite hardship to his spouse. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that courts and agencies are not required to address issues that are unnecessary to the results they reach). The instant motion does not otherwise meaningfully apprise us of how we specifically erred in our decision. As the Applicant has not established that our previous decision was based on an incorrect application of law or policy, or that it was incorrect based on the evidence then before us, he has not met the requirements for a motion to reconsider. 8 C.F.R. § 103.5(a)(3).

ORDER: The motion to reconsider is dismissed.