U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 24565803

Date: FEB. 21, 2023

Appeal of Milwaukee, WI Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Director of the Milwaukee, WI Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (Form I-601), to waive the Applicant's inadmissibility, concluding that he had not established extreme hardship to his U.S. citizen spouse, U.S. citizen father, and lawful permanent resident mother, as required to demonstrate eligibility for the discretionary waiver under section 212(I) of the Act. On appeal, the Applicant asserts his eligibility for the waiver.

The Applicant bears the burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter de novo. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). The matter is now before us on appeal. 8 C.F.R. § 103.3. Upon de novo review, we will dismiss the appeal.

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. If the noncitizen 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 l&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).

The record establishes that the Applicant is a citizen of Ghana. The Director determined the Applicant was inadmissible under section 212(a)(6)(C)(i) of the Act for fraud or willful misrepresentation of a material fact, and the Applicant, who is seeking adjustment of status, therefore filed this Form I-601 to waive his inadmissibility. In denying the Form I-601, the Director determined that the Applicant was not eligible for a waiver under section 212(i) of the Act because he had not established extreme hardship to his U.S. citizen spouse J-H-,[1] U.S. citizen father, and lawful permanent resident mother.

On appeal, the Applicant submits a brief contending that he established eligibility for the waiver based on extreme hardship to J-H- and his parents and that the Director failed to consider all the hardship to his qualifying relatives. The Applicant's brief does not point out any material errors in the Director's decision, but rather disagrees with the Director's weighing of the hardship in the established record.

Upon consideration of the entire record, including the arguments made on appeal, we adopt and affirm the Director's ultimate determination with the comments below. *See Matter of P. Singh, Attorney*, 26 I&N Dec. 623, 624 (BIA 2015) (citing *Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994)); *see also Urukov v. INS*, 55 F.3d 222, 227–28 (7th Cir.1995)(If a reviewing tribunal decides that the facts and evaluative judgments prescinding from them have been adequately confronted and correctly resolved by a trial judge or hearing officer, then the tribunal is free simply to adopt those findings provided the tribunal's order reflects individualized attention to the case).

The Director considered the Applicant's claimed hardships individually and, in the aggregate, finding the documentation regarding emotional and economic hardship, among other hardships, on J-H- and Applicant's parents, does not meet the Applicant's burden. The record evidence includes statements from J-H-, the Applicants mother, and the Applicant's father, proof of their status in the United States, paystubs for Applicant and J-H-, household budget, and copies of bills. J-H- indicated in her personal statement that she was independent for 20 years, from her divorce in 1999 until her marriage to the Applicant in [redacted]2019, and that she will not go to Ghana. The record shows that the Applicant's parents have an income far above the poverty guidelines without Applicant's contribution for utilities and the parents have two other U.S. citizen children residing the United States. Likewise, J-H- has two adult sons in the United States. We note the presence or absence of emotional support a qualifying relative might have available is a common factor we consider when evaluating extreme hardship claims. *Cervantes-Gonzalez*, 22 I&N Dec. at 566; *Matter of Andazola-Rivas*, 23 I&N Dec. 319, 323 (BIA 2002). The Director found that the record evidence did not sufficiently establish that the qualifying relatives would experience extreme hardship if the Applicant's waiver were denied.

Regarding economic hardship, the Applicant had presented the Director with monthly bills that evidence a large credit card debt. In his decision, the Director noted the Applicant failed to demonstrate how much of J-H-'s credit card debt was accrued on account of the Applicant joining the household versus debt that J-H- was able to manage on her own independently prior to marriage. Challenging the Director's finding, the Applicant's brief asserts, "[t]he statements provided with the I-601 show most of this [credit card] debt was incurred after the marriage." This appellate argument is incorrect, because the Applicant's statement does not mention credit card debt. And similarly, J-H-'s statement does not aver what portion of her debt was accrued on account of her marriage.

[1] Initials are used to protect the identity of the individual.

The record, reviewed in its entirety and considering the *Pilch* factors, cited above, does not support a finding that the Applicant's qualifying relatives will face extreme hardship if the Applicant lives in Ghana. The record does not establish that the Applicant's relatives face greater hardships than the unfortunate, but expected, disruptions, inconveniences, and difficulties arising whenever a husband or child is denied entry into the United States. The hardships he enumerates do not rise to the level of "extreme" as contemplated by statute and case law.

We are sympathetic to the family's circumstances, but considering all the evidence in its totality, the record remains insufficient to show that the aggregated financial and emotional hardships of separation would be unusual or atypical to the extent that they rise to the level of extreme hardship. The current state of the law, viewed from a legislative, administrative, or judicial point of view, requires that the hardship, which meets the standard in INA § 212(i), be above and beyond the normal, expected hardship involved in such cases. Here, the record fails to demonstrate that the Applicant's spouse and parents would suffer hardship beyond that normally expected upon the inadmissibility of a spouse or child.

Having found the Applicant statutorily ineligible for relief, we decline to reach and hereby reserve the issue of whether the Applicant merits the waiver as a matter of discretion. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).[2]

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(9)(B)(v), the burden of establishing that the application merits approval remains entirely with the Applicant. Section 291 of the Act, 8 U.S.C. § 1361. The Applicant has not sustained that burden. Accordingly, the waiver application remains denied.

ORDER: The appeal is dismissed.

[2] In reserving the issue of whether the Applicant merits the waiver as a matter of discretion, we note that the Applicant falsely claimed he was married on his USCIS A-2 nonimmigrant visa application, He also falsely denied he was ever rejected for a nonimmigrant visa during his adulthood, when, in fact, he had been rejected twice. In addition, the Applicant asserted that "a trusted person offering him a government job" prepared his A-2 non-immigrant visa application although the Applicant had certified on his A-2 visa application that no one assisted him in filling out the application.