U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 28404187

Date: JUL. 18, 2023

Appeal of Chicago, Illinois Field Office Decision

Form I-601, Application for Waiver of Grounds of Inadmissibility

The Applicant, a native of Pakistan and citizen of Canada currently residing in Canada, has applied to adjust status to that of a lawful permanent resident (LPR). A noncitizen seeking to be admitted to the United States as an immigrant or to adjust status must be "admissible" or receive a waiver of inadmissibility. The Applicant has been found inadmissible for fraud or misrepresentation and seeks a waiver of that inadmissibility. *See* Immigration and Nationality Act (the Act) section 212(i), 8 U.S.C. § 1182(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver if refusal of admission would result in extreme hardship to a qualifying relative or qualifying relatives. *Id.*

The Director of the Chicago, Illinois Field Office denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (waiver application), concluding that the record did not establish that the Applicant's LPR spouse would experience extreme hardship upon denial of admission. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Applicant argues that the Director did not consider all the relevant hardship factors in the aggregate and that he has established extreme hardship to his LPR spouse.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (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

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.

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). 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).

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. *See* 9 *USCIS Policy Manual* B.4(B), https://www.uscis.gov/legal-resources/policy-memoranda. An applicant may submit evidence demonstrating which of the scenarios would result from a denial of admission and may establish extreme hardship to one or more qualifying relatives by showing that either relocation or separation would result in extreme hardship. *See id.* An 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 id.* In the present case, the Applicant has stated that he and his spouse would experience extreme hardship in both scenarios, and the affidavit from the Applicant's spouse is unclear regarding her intent to either relocate with or separate from the Applicant. Therefore, the Applicant must establish that his spouse would experience extreme hardship both as a result of separation and relocation.

II. ANALYSIS

The Applicant does not dispute his inadmissibility on appeal, and we incorporate the Director's inadmissibility determination here, by reference. At the time the waiver application was filed in 2019, the Applicant was residing in the United States with his LPR spouse.[1] With his initial waiver application the Applicant stated that his spouse would experience extreme emotional, financial, and medical hardship both upon separation and relocation. As evidence of extreme hardship before the Director the Applicant provided a psychological evaluation, an affidavit from his spouse, a copy of his 2018 tax return, evidence of financial obligations, and affidavits from third parties. The Director determined that the collective evidence was insufficient to establish extreme hardship, specifically highlighting the psychological evaluation not including Canada as a place of resettlement, the lack of evidence related to a claimed mortgage payment and an unexplained change in address, the lack of evidence related to being unable to find work abroad, and that the three affidavits submitted from third parties included identical language that mirrored the statement of the Applicant's spouse, casting doubt on their veracity.

The Applicant's appeal was initially rejected as untimely in August 2020 and reopened on USCIS motion in May 2023 pursuant to 8 C.F.R. § 103.5(a)(5). The Applicant was provided with an

[1] The record indicates that, since the filing of the waiver application, the Applicant has relocated to Canada and his spouse has become a U.S. citizen.

additional 33 days to file a brief pursuant to 8 C.F.R. § 103.5(a)(5)(ii), and the Applicant resubmitted the brief from the original appeal.

On appeal, the Applicant states that his spouse, now a U.S. citizen, would experience extreme emotional, financial, and medical hardship both if they were forced to separate from one another and if they were to relocate to Canada or Pakistan. The Applicant further states that the change in address on some of the financial documents was due to moving from one house to another on the same street. However, the appeal did not contain any additional evidence related to the claimed mortgage payment or purchase of a new home. The Applicant also states that the similarities in the affidavits referenced by the Director was due to the affiants witnessing similar events. In support of his claims on appeal, the Applicant provided a brief, a supplemental psychological evaluation for his spouse, and a list of his spouse's medications.

In her affidavit before the Director, the Applicant's spouse stated that she has been anxious and depressed regarding her spouse's immigration issues. She further stated that she has developed a close circle of friends in the United States, that being separated from her adult children would be emotionally difficult, and that she and the Applicant are in a loving relationship. The psychological evaluation stated that the Applicant's spouse is experiencing emotional difficulty from a combination of anxiety and depression. The supplemental psychological evaluation submitted on appeal states that the Applicant's spouse is an on-going patient without indicating the frequency of the sessions. In addition, the language in the beginning of the evaluation states that the Applicant may be required to relocate to India or Canada, however, the body of the evaluation refers to the Applicant and his spouse being originally from Pakistan, a significant discrepancy. While the supplemental psychological evaluation proposes a treatment plan of counseling, psychotherapeutic interventions, relaxation techniques, and talk therapy, it does not state that these treatments would be unavailable if the Applicant's spouse were to relocate abroad. The third-party affidavits submitted to the Director contain the same heading and are all in the same format with numbered bullet points and provide some insight into the workings of the Applicant's family. However, as noted by the Director, they contain similar language regarding economic hardship, claiming that the Applicant brings in seventy-five percent of the family's income. It is unclear from the affidavits how the affiants are aware of the Applicant's income and financial situation. Even so, we acknowledge the claims made by the Applicant and his spouse regarding the emotional hardship of separation, however, based on a totality of the evidence provided the Applicant has not shown that his spouse's emotional hardship would be beyond that which is normally expected by separation from a loved one. Moreover, the Applicant has provided minimal evidence regarding the emotional effects of relocation and the totality of the evidence does not indicate that the Applicant's spouse would experience extreme emotional hardship if she were to relocate to Canada with her spouse.

The Applicant did not provide any additional evidence of financial hardship on appeal but argues that the evidence provided with the initial application is sufficient to establish extreme financial hardship to his spouse both on separation and relocation. To support his claim, the Applicant submitted a copy of his 2018 tax return, copies of bills, other evidence of financial obligations, and his spouse's personal statement. The Applicant, through his attorney, states that his spouse would suffer extreme financial hardship if he were forced to relocate to Canada because he is the primary source of income for the family and would be unable to find employment in Canada or Pakistan due to his advanced age. The Applicant has provided no evidence to support his claim that he or his spouse would be unable to work

in either Pakistan or Canada. While the evidence of financial obligations indicates the Applicant has incurred debt, the collective financial documents do not provide a sufficiently detailed picture of the Applicant's finances to establish that his spouse would suffer extreme financial hardship if they were to separate or relocate to Canada. Chiefly, the Applicant has not provided detailed evidence related to his current income and lack of job prospects abroad. Furthermore, the Applicant and his spouse claim to live with their two adult children, and it is unclear from the evidence provided if the Applicant's children assist in paying for the day-to-day expenses of the household. Finally, the record lacks evidence regarding the cost of living or job prospects in the Applicant's chosen place of resettlement. Consequently, the Applicant has not met his burden of proof to establish that his spouse would suffer extreme financial hardship upon relocation or separation.

Finally, the Applicant claims that his spouse would suffer medical hardship if he were not allowed to remain in the United States. On appeal, the Applicant states, through his attorney, that his spouse suffers from diabetes, ulcers, and glaucoma and that these illnesses have become a part of her life even though they were not mentioned in her affidavit. To support this statement the Applicant provided a list of medications without any additional explanation regarding the frequency of use or need for those medications. Without additional, corroborating information regarding the Applicant's spouse's health issues, the Applicant's role in her health care, and the availability of treatment in their chosen country of relocation, counsel's statements and a list of medications is not sufficient to establish extreme medical hardship to the Applicant's spouse on either separation or relocation.

The record, reviewed in its entirety and considering the *Pilch* factors, cited above, does not support a finding that the Applicant's qualifying relative will face extreme hardship either upon separation or relocation. The record does not establish that the Applicant's relative faces greater hardship than the unfortunate, but expected, disruptions, inconveniences, and difficulties arising whenever a spouse 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 recognize that the Applicant's spouse may face hardships upon separation or relocation and acknowledge the evidence of such hardships in the record; however, the Applicant has not shown that, when considered in the aggregate, the hardships described go beyond the common results of separation from a loved one or relocation to a new country and rise to the level of extreme hardship.[2]

---

[2] While the Applicant's failure to establish extreme hardship to his spouse upon separation or relocation is dispositive of his appeal, we additionally note that the record indicates that the Applicant is no longer residing in the United States and is therefore ineligible for adjustment of status to that of an LPR. In January 2023, the Applicant attempted to enter the United States in a commercial truck crossing from [redacted] Canada, to [redacted] Michigan. U.S. Customs and Border Protection officers interviewed the Applicant and established that he had been living in Canada since November 2020. Since the Applicant is not present in the United States, he is unable to renew his previous application even if this waiver application was granted. *See* section 245(a) of the Act; 8 C.F.R. 245.1(a) (requiring applications for permanent residence to be made while physically in the United States). He also has not provided evidence on appeal that he has made an application with the Department of State to receive an immigrant visa abroad. We note that a waiver of inadmissibility is not available on a "stand-alone" basis without an application for adjustment of status. *Matter of Rivas*, 26 I&N Dec. 130 (BIA 2013); *see also Matter of Y-N-P-*, 26 I&N Dec. 10, 16 (BIA 2012) (clarifying that an adjustment of status application "shall be the sole method of requesting the exercise of discretion under sections 212(g), (h), (i), and (k) of the Act, as they relate to the inadmissibility of an alien in the United States.")

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). The Applicant has not met his burden of proof to establish that his qualifying relative would suffer extreme hardship as required under section 212(i) of the Act. The waiver application will therefore remain denied.

ORDER: The appeal is dismissed.