U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 25862825

Date: JUNE 16, 2023

Appeal of Cleveland, Ohio 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 and seeks a waiver of inadmissibility under section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i). The Director of the Cleveland, Ohio Field Office denied the Applicant's Form I-601, Application for Waiver of Grounds of Inadmissibility, after concluding he was inadmissible under section 212(a)(6)(C)(i) of the Act for fraud and misrepresentation and that the record did not establish that his spouse would suffer extreme hardship on separation. The matter is now before us on appeal. 8 C.F.R. § 103.3. The Applicant claims, in part, that the Director erred by finding the hardship his spouse would experience did not rise to the requisite level.

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.

Section 212(a)(6)(C)(i) of the Act renders inadmissible 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, admission into the United States, or other benefit provided under the Act. Section 212(i) of the Act provides a waiver of above ground of inadmissibility if refusal of admission would result in extreme hardship to a U.S. citizen or lawful permanent resident spouse or parent of the noncitizen. If a noncitizen demonstrates the existence of the required hardship, then they must also show they merit a favorable exercise of 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). 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).

As noted above, the Applicant had submitted a Form I-601 to overcome grounds of inadmissibility found in sections 212(a)(6)(C)(i) of the Act. In support of his Form I-601, the Applicant asserted that his spouse would suffer extreme hardship due to her diabetes and carpel tunnel syndrome for which she was receiving treatment in the United States. The Applicant claimed that such treatment would be unavailable in Mexico and that they would have to work additional hours to be able to pay for their medical needs if they were to relocate to Mexico. The Applicant also noted that while his spouse worked, she made considerably less than him and that if she remained in the United States without his income, she would suffer financial hardship. Finally, the Applicant explained that one his daughters also has diabetes for which treatment would be unavailable in Mexico, that his daughters would not receive an equivalent education in Mexico as in the United States, and that the family would be subjected to crime and violence should they relocate there. The Director denied the Form I-601, noting that the Applicant did not contest the inadmissibility finding, that the spouse did not clearly indicate whether she intended to remain in the United States or relocate to Mexico and the Applicant thus needed to establish hardship upon both separation and relocation. The Director then concluded that the Applicant did not establish his denial of admission would result in extreme hardship to his spouse upon separation and that he was therefore ineligible for the waiver.

On appeal, the Applicant claims that the Director erred in concluding his spouse will not suffer extreme hardship given her medical conditions, including anxiety, obesity, and prediabetes, as well as long-term effects of COVID-19 that arose after the initial Form I-601 was filed in 2019, all of which require continued care in the United States. The Applicant also claims the Director erred in concluding his U.S. citizen children would not suffer the requisite hardship if his waiver was denied. In support of his appeal, the Applicant submitted additional evidence, including updated medical documents for the spouse that indicate she is receiving care for prediabetes and anxiety and that she recently sought treatment for long-lasting effects from COVID-19, as well as medical and school documents for his daughters.

The Applicant does not contest the Director's determination of inadmissibility regarding section 212(a)(6)(C)(i) of the Act and therefore must still establish that his spouse would suffer extreme hardship if he were denied admission. 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/policymanual. Demonstrating extreme hardship under both scenarios is not required if an applicant's evidence establishes that one of these scenarios would result from the denial of the waiver. *Id.* 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. *Id.* In the present case, the spouse does not clearly indicate whether she intends to remain in the United States or relocate to Mexico if the Applicant's waiver application is denied. The Applicant must therefore establish that if he is denied admission, his spouse would experience extreme hardship both upon separation and relocation.

After reviewing the evidence submitted with the waiver application and on appeal, we agree with the Director's decision that the Applicant has not established the requisite hardship to his spouse. The record as it relates to hardship lacks the specificity and detail needed to make a finding that extreme hardship would result upon separation.

As noted above, the Applicant provided medical documentation indicating the spouse is receiving care for anxiety, obesity, and prediabetes, and that she sought treatment for long-lasting effects from COVID-19 in October 2022. The documentation, however, does not provide sufficient detail regarding the frequency or severity of any symptoms or a specific treatment plan. The Applicant has not provided other medical documentation that clarifies the nature and degree of his spouse's anxiety, prediabetes, obesity, or effects from COVID-19; how these conditions affect her daily activities or employment; or to what degree she is dependent on the Applicant to alleviate her symptoms. Thus, while the Applicant has shown his spouse suffers from the above conditions, absent evidence from a treating physician that describes the exact nature and severity of any current condition and provides a description of any treatment or specific family assistance needed, the Applicant has not shown the level of resulting hardship upon separation. Additionally, while the Applicant claims his children would suffer hardship, section 212(i) of the Act limits the requirement of showing hardship to U.S. citizen or lawful permanent resident spouses and parents, and the Applicant has not established the degree to which any hardship to his children would extend to his spouse or how it would be unusual or beyond what would normally be expected upon separation. When considering the above factors in the aggregate, the Applicant has not established by a preponderance of the evidence that any hardship his spouse would face as a result of separation rises to the level of extreme hardship.

As noted above, the Applicant must establish that denial of the waiver application would result in extreme hardship to his spouse both upon separation and relocation. As the Applicant has not established extreme hardship to his spouse in the event of separation, he has not met this requirement. While the Applicant had previously addressed hardship the spouse would undergo if she were to move to Mexico, because the failure to establish extreme hardship upon separation is dispositive to this case, we need not address the relocation scenario and hereby reserve the issue. *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"). Similarly, because the Applicant has not demonstrated extreme hardship to a qualifying relative if he is denied admission, we need not consider whether he merits a waiver in the exercise of discretion.

ORDER: The appeal is dismissed.