U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 24887964

Date: MAR. 30, 2023

Appeal of Los Angeles County, California 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), for fraud or willful misrepresentation.

The Director of the Los Angeles County, California Field Office denied the application, concluding that the record did not establish that the Applicant's qualifying relative would suffer extreme hardship upon relocation to Egypt. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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. There is a 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. If the noncitizen demonstrates the existence of the required hardship, then they must also show that USCIS should favorably exercise its discretion and grant the waiver. 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).

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. 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. 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. 9 *USCIS Policy Manual* B.4(B), https://www.uscis.gov/legal-resources/policy-memoranda. In the present case, the qualifying relative has provided a statement of intent to relocate to Egypt with her spouse should the request for admission be denied. Therefore, the Applicant must establish that if he is denied admission, his spouse would experience extreme hardship upon relocation.

II. ANALYSIS

The Applicant is a citizen and national of Egypt who entered the United States as a visitor in April 2016. The Applicant married M-N-O-[1], a U.S. citizen, in [redacted]2016. While seeking adjustment of status as the spouse of a U.S. citizen, the Applicant was found inadmissible under 212(a)(6)(C)(i) of the Act for providing false information on his non-immigrant visa application. The Applicant does not contest, and the record supports, the inadmissibility finding of the Director which is incorporated here. In November 2021 we remanded the initial decision of the Director for reconsideration because the Director did not fully exam the effects of relocation on the qualifying relative. In August 2022, the Director again denied the waiver request after evaluating the Applicant's claim that his spouse would suffer extreme hardship if she were to relocate to Egypt.

On this appeal, the Applicant states that the Director erred by using the "exceptional and extremely unusual" hardship standard in evaluating the evidence submitted for his waiver. In addition, the Applicant contends that the Director did not conduct a first line adjudication of extreme hardship as directed by us in a previous decision. To support this assertion on this appeal, the Applicant submits a brief from his attorney, a personal statement from his spouse, a mental health assessment for his spouse and country condition materials for Egypt.

Upon de novo review, we agree with the Director that the Applicant has not met his burden of proof that his spouse would suffer extreme hardship if she were to relocate to Egypt with him. The Applicant contends that the Director did not apply the correct standard of hardship in their review of the evidence. While the Director made an incorrect reference to "exceptional and extremely unusual hardship", the analysis in the decision clearly shows that the appropriate "extreme hardship" standard was used in their review of the evidence. Moreover, in our own independent analysis of the evidence we have determined that the Applicant has not established that his spouse would suffer extreme hardship if she were to relocate to Egypt with him.

[1] We use initials to protect the privacy of individuals.

On appeal, the Applicant states that his spouse would suffer financial hardship if she were to relocate to Egypt because she would not be able to find employment and she would be giving up the business she created for herself in the United States. The Applicant's spouse states that not being able to read or write Arabic would make it difficult for her to find employment in Egypt. The Applicant cites *Matter of Kao and Lin*, 23 I&N Dec. 45 (BIA 2001) to support his claim that not knowing Arabic alone should be sufficient for a finding of extreme hardship. While language ability was part of the Board's decision-making process, it was not the sole factor in reaching their determination. The Board considered the age of the respondent's children, ability to cope with integration into Taiwanese schools, and the culture shock that would affect a young person who had only ever lived in the United States rather than strictly the inability to understand the Chinese language as suggested by the Applicant. The decision does not assert that lack of language ability alone is sufficient for a finding of extreme hardship. In addition, the Applicant re-submitted evidence that relates to the general conditions of poverty in Egypt. As previously stated in our remand decision, the evidence is not persuasive because it is not specific to the Applicant or his qualifying relative. Neither the Applicant or his spouse have provided details on their potential relocation or employment prospects beyond the language issue referenced above and the assertion that poverty, in general, exists in Egypt. The Applicant, in fact, provides no statement of his own regarding the effects of relocation on either himself or his spouse beyond his attorney's brief and no information regarding he and his spouse's current financial assets, debts, or obligations, collectively or separately. The unsupported statements of counsel on appeal are not evidence and thus are not entitled to any evidentiary weight. *See INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez Sanchez*, 17 I&N Dec. 503 (BIA 1980); *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988). The record also reflects that the Applicant's spouse has three adult children from prior relationships. The record does not indicate that the children would be unwilling or unable to assist their mother financially. We acknowledge the difficulties of relocating and finding employment in a foreign job market, however, given the lack of probative detail regarding specific employment prospects, skills and ties to Egypt, the Applicant has not established that this would rise to the level of extreme hardship.

On appeal, the Applicant submits a mental health assessment for his spouse describing symptoms of a generalized anxiety disorder as well as articles highlighting the stigma related to mental health treatment in Egypt. We acknowledge that the Applicant's situation has had an adverse effect on his spouse's mental health, however, the anxiety and symptoms described by the evaluator do not appear to go over and above those normally associated with deportation of a family member. *See Matter of Pilch*, 21 I&N at 627. As for M-N-O-'s emotional hardship due to separation from her family, we conclude that the Applicant has not submitted sufficient evidence to warrant a finding of extreme hardship based on family separation. In particular, while the Applicant's attorney asserts that M-N-O- is very close to her daughter A-, there is limited evidence to support this claim. The Applicant's spouse does not name any of her children in her statement on appeal or in the behavioral assessment. Similarly, M-N-O- does not provide any information regarding the details of her relationship with her children. In addition, M-N-O-'s family has not submitted any statements of support for the Applicant or his spouse either with the initial submission or on appeal. While counsel opines on the devastation the family would experience if separated, the evidence in the record does not support such a conclusion. Therefore, we consider M-N-O-'s separation from her family as an emotional hardship only to the extent that she indicated in her personal statement that the prospect of being separated from her children is "extremely difficult."

Lastly, on appeal, the Applicant asserts that country conditions in Egypt, in particular violence perpetrated against Christians, would result in extreme hardship to his spouse. In her statement, the Applicant's spouse says that she would face "discrimination and even persecution based on my religion" but does not discuss her religion in any additional detail. The Applicant submits the Department of State's 2021 International Religious Freedom Report for Egypt along with travel advisories and news articles describing religious persecution in Egypt. While we acknowledge the existence of crimes motivated by religion in Egypt, we also note that many of the perpetrators were apprehended and punished by Egyptian authorities. The travel advisories highlight specific regions where travel is not recommended based on terrorism and military zones. However, the Applicant has not provided probative evidence establishing where he and his spouse intend to live in Egypt or that his spouse would suffer religious persecution by living there. Absent further development, the Applicant's arguments are not persuasive.

As described above, we agree with the Director that the evidence submitted does not provide the detail and specificity necessary to make a finding that the concerns amount to extreme hardship (either individually or cumulatively). Thus, we find the Applicant has not established that his spouse's hardships would go beyond the common results of removal and 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 that he is eligible for a waiver of inadmissibility. Section 291 of the Act, 8 U.S.C. § 1361. The Applicant has not met this burden. The Director's decision will be affirmed.

ORDER: The appeal is dismissed.