U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 29631130

Date: JAN. 5, 2024

Appeal of New York, New York Field Office Decision

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

The Applicant, a native and citizen of Ghana, 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.[1] *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.

The Director of the New York, New York Field Office denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (waiver application), concluding that the Applicant did not establish extreme hardship to her U.S. citizen spouse, the qualifying relative. 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.

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. This ground of inadmissibility may be waived as a matter of discretion if refusal of admission would result in extreme hardship to the U.S. citizen or LPR 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) (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

[1] The Applicant applied for and received a student visa that was revoked after determining the application contained false information and the scholarship did not exist. The Applicant does not contest the finding of inadmissibility.

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 issue on appeal is whether the Applicant has established extreme hardship to her U.S. citizen spouse and if so, whether she merits a favorable exercise of discretion. The Applicant asserts her spouse would suffer extreme hardship upon separation and relocation because the financial responsibilities, the psychological and emotional hardships of being apart, the challenges of caring for his U.S. citizen mother-in-law with medical issues, and the lower standard of living in Ghana would all rise to the level of extreme hardship.

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 (providing guidance on the scenarios to consider in making extreme hardship determinations). Demonstrating extreme hardship under both these scenarios is not required if the applicant's evidence demonstrates that one of these scenarios would result from the denial of the waiver. *See id.* (citing to *Matter of Calderon-Hernandez*, 25 I&N Dec. 885 (BIA 2012) and *Matter of Gonzalez Recinas*, 23 I&N Dec. 467 (BIA 2002)). 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.* Here, the Applicant did not specify if her spouse would remain in the United States or relocate to Ghana, and thus the Applicant must establish extreme hardship to her spouse upon both relocation and separation. Upon de novo review, the Applicant has not established by a preponderance of the evidence that her spouse would endure extreme hardship upon separation, and thus, we need not consider extreme hardship in the event of relocation.

Regarding hardship, the record contains statements from the Applicant and her spouse, a psychological report, her mother-in-law's certificate of citizenship and medical records, and financial documents. The psychological report indicates the Applicant's spouse is suffering from major depression and generalized anxiety disorder. The report does not indicate a treatment plan beyond granting the waiver, and there is no evidence the spouse is currently undergoing therapy or receiving medical treatment for these psychological ailments. Neither the report nor any statement in the record details how the spouse's depression and anxiety impact his day-to-day life or how the Applicant supports her spouse with the depression and anxiety. The statements from the Applicant and her spouse indicate they have a supportive and caring relationship but without more, loss of companionship and emotional support are expected results of separation from a loved one. The psychological report and statements do not indicate that the Applicant's spouse would experience emotional hardships that rise to the level of extreme.

The statements in support of the waiver application discuss the support the Applicant provides to her mother-in-law who suffers from asthma, hypertension, anxiety disorder, and an ulcer. The Applicant and her spouse cook for the mother-in-law, bring her to medical appointments, help her financially

and remind her to take her medicine. The Applicant's spouse has three U.S. citizen sisters residing in the United States, but the record does not indicate whether they assist in caring for their mother, or if not, why they are unable to do so. Although not a qualifying relative, we recognize that caring for an aging relative is difficult, however the medical records and statements from the Applicant's mother-in-law are insufficiently detailed to demonstrate that the level of hardship would rise to extreme if the waiver were not granted and the Applicant were no longer able to assist in caring for her mother-in-law.

The Applicant earns a steady income of approximately $1,000 per month. Her spouse is an [redacted] driver with a variable income. He relies on the Applicant financially to share the household expenses and because her income is consistent, they can manage financial obligations together. The Applicant explains that she would be unable to find work in Ghana and that her spouse would not be able to support the Applicant if she relocated to Ghana, but the record lacks information on the current job market in Ghana to support the claim of being unable to work there. Moreover, the Applicant does not explain why her spouse would be unable to obtain a different job in the United States. He attended high school and college in the United States but has not indicated what he studied in school or why he could not obtain a different job with steady earnings. Although the loss of the Applicant's income would create financial challenges for her spouse, it does not rise to the level of extreme hardship. We note that inability to maintain one's present standard of living is a common result of removal. *See Matter of Pilch*, 21 I&N Dec. at 631.

The Applicant has not established by a preponderance of the evidence that her spouse's hardships, considered individually and cumulatively, would rise to the level of extreme hardship upon separation. As such, we need not consider whether she merits a waiver in the exercise of discretion. The waiver application will remain denied.

ORDER: The appeal is dismissed.