U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 21694723

Date: JUL. 19, 2022

Appeal of Houston, Texas 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 Houston, Texas Field Office denied the application, finding that the Applicant had not established that her U.S. citizen spouse, the only qualifying relative, would suffer extreme hardship upon her removal from the United States.

On appeal, the Applicant contends she has established that her spouse will experience extreme hardship due to her inadmissibility.

The Applicant bears the burden of proof to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). This office reviews the questions in this matter *de novo*. *See 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

A 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 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) (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).

II. ANALYSIS

The Applicant, a native and citizen of Mexico, was found inadmissible under section 212(a)(6)(C)(i) of the Act, for fraud or willful misrepresentation. The Applicant does not contest inadmissibility on appeal. Thus, the Applicant must seek a waiver of this inadmissibility. The issues on appeal therefore are whether the Applicant has established extreme hardship to a qualifying relative and if so, whether she merits a favorable exercise of discretion. We have considered all the evidence in the record and conclude that the claimed hardships to the Applicant's spouse do not rise to the level of extreme hardship when considered both individually and cumulatively.

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. Demonstrating extreme hardship under both of these scenarios is not required if an applicant's evidence establishes that one of these scenarios would result from the denial of the waiver. 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. 9 *USCIS Policy Manual* B.4(B), https://www.uscis.gov/policymanual. In the present case, the record does not establish whether the Applicant's spouse intends to remain in the United States or relocate to Mexico with the Applicant if the waiver application is denied. The Applicant must therefore establish that if she is denied admission, her spouse would experience extreme hardship both upon separation and relocation.

The Applicant's spouse contends that he would experience extreme hardship in Mexico were he to relocate to Mexico with the Applicant. Specifically, he states that if he were to move to Mexico, he would lose the medical insurance that he has through his employer. He also contends that he would not receive the same quality health care in Mexico as he does in the United States. The Applicant's spouse further maintains that were he to relocate to Mexico, he would not be able to obtain gainful employment and support himself because jobs are hard to find, there is much discrimination, and the pay is very low. The Applicant's spouse also states that his daughters would suffer in Mexico because they would not be able to attend college and that would cause him hardship. Finally, the Applicant's spouse contends that crime and violence is high in [redacted] where he would relocate in Mexico, and he and his family's safety and well-being would be at risk there.

After review of the evidence submitted with the waiver application and on appeal, we affirm the Director's decision. The current hardship record lacks the specificity and detail needed to make a finding that extreme hardship would result upon relocation. While we acknowledge the contentions in the record that the Applicant's spouse will experience hardship were he to relocate to Mexico with the Applicant, the record does not contain documentation to establish the severity of this hardship or the effects on his daily life. We note that the Applicant's spouse was born and raised in Mexico; he did not come to the United States until he was an adult. The Applicant has not provided documentation

on appeal establishing the hardships her spouse specifically experienced prior to relocating to the United States, to support the contention that a return to Mexico would cause him extreme hardship. Nor has the Applicant submitted medical documentation on appeal for her spouse to establish his current medical conditions, the treatment plan, and what hardships he would experience, if any, were he to relocate to Mexico. We also note that the Applicant's daughters are 22 years old; the record does not establish that they are unable to remain in the United States while their parents relocate abroad. Nor does the record establish that the Applicant's spouse would not be able to return to the United States to see his daughters. As for the Applicant's concerns about his safety and well-being in Mexico, the record does not indicate that he specifically would be targeted were he to relocate to his native state of [redacted] While we acknowledge the documentation in the record about the problematic conditions in Mexico, we note that said documentation is general in nature and does not establish that the Applicant's spouse's safety and well-being in his native country would be at risk.

As for the financial hardship referenced, the Applicant has not established on appeal that her spouse, currently employed in maintenance, is unable to obtain gainful employment to support himself in Mexico. Nor has the Applicant established that her spouse would not be able to return to the United States and obtain medical care as needed. Nor has it been established that the Applicant's adult daughters would be unable to assist their parents financially as needed.

The evidence in the record is insufficient to establish that the spouse's hardships, considered individually and cumulatively, would go beyond the common results of inadmissibility or removal and rise to the level of extreme hardship due to relocation with the Applicant. The record shows the Applicant's spouse was born and raised in Mexico and there is insufficient evidence establishing that the Applicant's spouse would face hardship that would go beyond the hardship typically resulting from relocation.

The Applicant must establish that denial of the waiver application would result in extreme hardship to a qualifying relative upon both separation and relocation. As the Applicant has not established extreme hardship to her qualifying relative in the event of relocation, we cannot conclude she has met this requirement. 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 eligibility for a waiver of inadmissibility. Section 291 of the Act, 8 U.S.C. § 1361. Here, she has not met that burden.

ORDER: The appeal is dismissed.