U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 21589136

Date: JULY 21, 2022

Appeal of Santa Ana, 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 (LPR) 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 Santa Ana, California Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the record did not establish, as required, that denial of admission would result in extreme hardship to the Applicant's qualifying relative. The matter is before us on appeal. On appeal, the Applicant contends that the Director erred by not considering the evidence of hardship in its entirety. The Administrative Appeals Office reviews 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 discretionary waiver of this inadmissibility if refusal of admission would result in extreme hardship to the U.S. citizen or LPR spouse or parent of the foreign national. 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). The burden of proof is on an applicant to demonstrate eligibility by a preponderance of the evidence. Matter of Chawathe, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The Applicant does not contest the finding of inadmissibility for fraud or misrepresentation, a determination supported by the record.[1] Instead, the issue on appeal is whether the Applicant's qualifying relative would experience extreme hardship if the waiver were denied. We have considered all the evidence in the record and conclude that it does not establish that the claimed hardships rise to the level of extreme hardship when considered both individually and cumulatively.

The Applicant must demonstrate that denial of the application would result in extreme hardship to a qualifying relative or qualifying relatives, in this case his U.S. citizen spouse. 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. See 9 USCIS Policy Manual B.4(B), https://www.uscis.gov/policymanual (discussing, as guidance, how an applicant can establish extreme hardship upon separation or relocation). In the present case, the record contains no statement from the Applicant's spouse indicating she intends to remain in the United States or relocate to Colombia if the 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.

On appeal, the Applicant asserts that the Director erred in finding that the claimed emotional, medical, and financial hardships to his spouse, in the aggregate, did not rise to the level of extreme hardship. He contends that if the waiver is denied, the couple's plan to buy a home would be impossible because their savings would have to be diverted to cover his living expenses in Colombia. The Applicant's spouse herself asserts that the Applicant, since their marriage in 2018, has actively invested in step-parenting her 21-year-old daughter and 17-year-old son. She also states that her son participates in an elite level sport which requires considerable parent involvement, and the Applicant is an indispensable source of support. She further states that she suffers from Meniere's disease, a disorder of the inner ear that can lead to vertigo and hearing loss, and the Applicant assists her in managing her condition.

Upon de novo review, the Applicant has not established by a preponderance of the evidence that his spouse would endure extreme hardship upon separation. With respect to financial hardship, the record reflects that the Applicant's spouse has a yearly income of $60,000, and while the couple's savings and homebuying plans may be negatively impacted due to the loss of the Applicant's income, the record does not demonstrate that she would be unable to afford her primary expenses. See Matter of Pilch, supra at 631 (providing that the inability to maintain one's present standard of living does not ordinarily amount to extreme hardship). Further, the record does not demonstrate that the Applicant would be unable to find employment in Colombia sufficient to support himself. With respect to medical hardship, the record contains documentation which indicates that the Applicant's spouse has been diagnosed with and is being treated for Meniere's disease; however, the record does not contain

[1] The record reflects that in 2014, the Applicant procured a visitor's visa by misrepresenting his immigration intent and marital status.

documentation providing further detail about the nature and severity of the Applicant's spouse's medical condition or indicate that any assistance is required to manage her condition. Regarding emotional hardship, we acknowledge the Applicant's spouse's statements regarding her reliance upon the Applicant for emotional support as well as the difficulties that separation from the Applicant may cause her; however, the record does not contain any further detail about the impact of any emotional hardship the Applicant's spouse may experience in her daily life or demonstrate that she would be unable to continue to support her son in his athletic endeavors.

Based on the documentation in the record, we cannot conclude that, when considered in the aggregate, any financial, medical, and emotional hardships the Applicant's spouse would experience upon separation from the Applicant would go beyond the common results of inadmissibility or removal and rise to the level of extreme hardship.

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 his qualifying relative in the event of separation, we need not consider extreme hardship in the event of relocation. The waiver application will remain denied.

ORDER: The appeal is dismissed.