U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 27490506

Date: AUG. 21, 2023

Appeal of Hialeah, Florida Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of Cuba currently residing in the United States, 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 a crime involving moral turpitude and seeks a waiver of that inadmissibility. *See* Immigration and Nationality Act (the Act) section 212(h), 8 U.S.C. § 1182(h). 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.

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 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.

The Director of the Hialeah, Florida Field Office denied the application, concluding that the Applicant did not establish that his qualifying relatives would experience extreme hardship and that the Applicant did not warrant a favorable exercise of discretion. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Applicant does not contest his inadmissibility but asserts that he warrants a favorable exercise of discretion and that he has established extreme hardship to his qualifying U.S.

citizen spouse, child and two LPR children. The Applicant has not submitted any additional documentary evidence on appeal.

We incorporate the Director's summary of the evidence of extreme hardship here, by reference. The evidence provided by the Applicant lacks probative details regarding the claimed extreme hardship to the Applicant's qualifying relatives. The Applicant's statement to the director does not address his qualifying relatives or the hardship they would experience if he were denied admission to the United States. The letters from the Applicant's U.S. citizen spouse and LPR children are similarly vague and do not address any specific economic, medical, or emotional hardship that they would experience in his absence. Each letter briefly expresses the Applicant's importance to the family and that they would like him to stay in the United States. The arguments made on appeal do not address the Director's determination that the Applicant has not established extreme hardship to his qualifying relatives but argue that he has paid his debt to society for a mistake that he made in [redacted] 2011 and should be allowed to remain in the United States. [1]

The Applicant has not met his burden of proof to establish extreme hardship to his qualifying relatives, as required. Section 212(h) of the Act. Because the Applicant has not demonstrated extreme hardship to his qualifying relatives, we need not consider whether he merits a waiver in the exercise of discretion and, therefore, 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"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible). The waiver application will remain denied.

ORDER: The appeal is dismissed.

[1] We note that with his initial waiver application the Applicant argued that he was eligible for a waiver under section 212(h)(1)(A) of the Act because 15 years had passed since the commission of the crime that rendered him inadmissible. However, the Applicant committed a violation of Florida Statutes Annotated § 790.19 Deadly Missile/ Shoot, Throw in [redacted] 2011. Therefore, at the time the waiver application was filed in April 2021, the Applicant was not eligible for a waiver under 212(h)(1)(A) because less than 15 years had elapsed since the criminal conduct.