U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 25425037

Date: JUN. 22, 2023

Appeal of Los Angeles, California Field Office Decision

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

The Applicant, a native and citizen of Mexico 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 fraud or misrepresentation and seeks a waiver of that inadmissibility. *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 Los Angeles, California Field Office denied the application, concluding that the record did not establish that the Applicant's lawful permanent resident spouse would suffer extreme hardship if the waiver application were denied. 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

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).

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/legal-resources/policy-memoranda. 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. *See id.* 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.*. In the present case, the Applicant has stated that she and her spouse would be forced to separate if the waiver application is denied. Therefore, the Applicant must establish that her LPR spouse would experience extreme hardship if he remained in the United States while the Applicant relocated to Mexico.

II. ANALYSIS

The Director determined that the Applicant is inadmissible for fraud and willful misrepresentation of a material fact for falsely claiming to have entered the United States with a visitor visa on her prior application for adjustment of status in 2009. The Applicant does not contest her inadmissibility on appeal but states that her qualifying relative, her LPR spouse, would suffer extreme emotional, medical, and financial hardship if they were forced to separate. In their statements to the Director, the Applicant and her spouse stated that the Applicant's spouse suffers from ulcers and stomach pain due to stress, that he would be unable to support his spouse financially upon her relocation to Mexico, and would experience extreme emotional hardship if separated from the Applicant. In support of their statements, the Applicant also provided financial documents including bank statements and taxes, Department of State travel advisories, a report from Human Rights Watch, a Department of State human rights report for Mexico from 2020, and letters of support from friends and family. The Director determined that the collective evidence did not establish the Applicant's spouse would suffer hardship that was over and above that which would normally be felt as a result of a family member's deportation.

On appeal, the Applicant states that she has met her burden of proof in establishing extreme hardship to her LPR spouse and provides additional evidence to rebut the Director's determination. In addition, the Applicant argues that the Director did not properly weigh the country conditions materials provided in support of the waiver request. Upon de novo review, the Applicant has not established that her spouse's hardships resulting from their separation, considered individually and cumulatively, would go beyond the common results of removal and rise to the level of extreme hardship.

In her statement to the Director regarding her spouse's emotional hardship, the Applicant references her almost 30-year relationship with her spouse and their three shared children as evidence of their close emotional bond. In his statement to the Director, the Applicant's spouse states that he would suffer emotional hardship if his spouse were not allowed to remain in the United States and also references their nearly 30-year relationship, three shared children, and the fear he has for his spouse's safety due to the current country conditions in Mexico. On appeal, neither the Applicant or her spouse provide an additional statement, however, the Applicant has submitted a psychological evaluation for her spouse. The psychological evaluation for the Applicant's spouse addresses a history of family disruption due to immigration issues and diagnoses the Applicant's spouse with generalized anxiety disorder. The Applicant's spouse discusses the effect of his elderly parents' move back to Mexico and about how much he worries about their health and wellbeing. The assessment concludes by finding that the Applicant's spouse lacks the coping skills required to sustain psychological and emotional balance without the reliability and dependability of his spouse and suggests additional counseling to build those coping skills. We acknowledge the claims made by the Applicant and her spouse regarding the emotional hardship of separation, however, based on a totality of the evidence provided the Applicant has not shown that her spouse's emotional hardship would be beyond that which is normally expected by separation from a loved one.

The Applicant also claims that her spouse would suffer from financial hardship if she were removed from the United States. The Applicant states that while she has been unemployed in the United States, she has been an active volunteer and critical family support. The Applicant's spouse states that he would be unable to provide financially for his spouse if she were to live in Mexico. In the psychological evaluation, the Applicant's spouse states that he would need to pay for all of his spouse's living expenses in Mexico and that his spouse would be unable to find work. He additionally states that his spouse is the pillar of the household, and everyone would fall apart without her. While we acknowledge the statements of the Applicant and her spouse related to extreme financial hardship, the application lacks sufficient evidence to establish a complete financial picture of the Applicant's family. The Applicant and her spouse claim to live with their three adult children, and it is unclear from the evidence provided if the Applicant's children assist in paying for the day-to-day expenses of the household. In addition, while the Applicant submitted bank statements and taxes, the record lacks evidence regarding current household expenses and financial obligations as well as the cost of living in the Applicant's chosen place of resettlement. Consequently, the Applicant has not shown that the financial impact of separation upon her spouse is more than the common or typical hardship resulting from deportation.

Regarding medical hardship, the Director noted that other than general assertions regarding the health of the Applicant's spouse, there was insufficient supporting evidence to establish extreme hardship on medical grounds. On appeal, the Applicant submits the psychological evaluation, a discharge summary from [redacted] Memorial Hospital and Health Center with a diagnosis of diverticulitis, and an informational printout from the Mayo Clinic regarding Diverticulitis. The discharge summary shows that the Applicant's spouse was prescribed antibiotics and pain medication to treat his condition. In addition, the information from the Mayo Clinic indicates that Diverticulitis is a common condition that is treatable by rest, change in diet, antibiotics and in rare cases, surgery. The Applicant's spouse's medical condition does not appear to be severe or ongoing. The record also does not contain any additional medical documentation for the Applicant's spouse or any statement from a treating

physician describing his medical conditions or prognoses including the frequency and severity of his symptoms, any prescribed treatments, and the need for any assistance.

The Applicant further argues on appeal that the Director disregarded the evidence related to country conditions in Mexico, in particular the persecution of Jehovah's Witnesses based on their faith, that would make the Applicant's removal to Mexico dangerous. In support of this assertion, she provides a 2017 article regarding the expulsion of religious minorities from Mexico, an article discussing the historical significance of the Mexican oath of allegiance to Jehovah's Witnesses, and a Department of State travel advisory for Mexico. While we acknowledge the submission of country conditions materials, the Applicant and her spouse have indicated they would be forced to separate as a result of denial of her admission. The evidence provided does not indicate that the Applicant would be specifically targeted for persecution or harm either as a result of her religious convictions or any other factors. Therefore, the country conditions in Mexico, a significant factor in determining extreme hardship upon relocation, hold limited evidentiary weight when considered in the context of extreme hardship to the Applicant's spouse upon separation. We also note the submission of letters of support from family and friends discussing the Applicant's positive impact on her family and the lives of those around her. This includes letters of support from each of her children discussing how her departure would affect their family. Hardship to an applicant or others can be considered only insofar as it results in hardship to a qualifying relative. *Matter of Gonzalez Recinas*, 23 I&N Dec. 467, 471 (BIA 2002). We recognize that the Applicant's spouse may face hardships upon separation and acknowledge the evidence of such hardships in the record; however, the Applicant has not shown that, when considered in the aggregate, the hardships described go beyond the common results of separation from a loved one and rise to the level of extreme hardship.

Because the Applicant has not demonstrated extreme hardship to a qualifying relative if she is denied admission, we need not consider whether she merits a waiver in the exercise of discretion. The waiver application will therefore remain denied.

ORDER: The appeal is dismissed.