U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 27437352

Date: OCT. 3, 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 denial of admission would result in extreme hardship to a qualifying relative or relatives.

The Director of the Los Angeles Field Office denied the application, concluding that the record did not establish that his spouse would experience extreme hardship upon denial of admission. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Applicant asserts that her spouse would experience extreme mental, emotional, and physical hardship if she were denied admission to the United States.

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. USCIS may grant a 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 noncitizen. Section 212(i) of the Act. If the noncitizen demonstrates the existence of the required hardship, then they must also show that USCIS should favorably exercise its discretion and grant the waiver. *Id.* 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/policymanual. Demonstrating extreme hardship under both of 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.* 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 id.* Here, neither the Applicant or his spouse make a definitive statement regarding whether they intend to separate or relocate together to Mexico. As a result, the Applicant must establish that her U.S. citizen spouse would experience extreme hardship both upon separation and relocation.

The Applicant does not contest her inadmissibility on appeal, and we incorporate the Director's inadmissibility finding here, by reference.[1] The Applicant states that she qualifies for a waiver of inadmissibility because her spouse would experience extreme economic, emotional, and medical hardship if she were denied admission to the United States. In his statement to the Director, the Applicant's spouse stated that he could not imagine life without his spouse and that she cares for their two children while he is away for work for weeks and months at a time. In her statement to the Director, the Applicant states that it cause great pain for her children if she were forced to be separated from them. The Applicant further stated that her spouse would endure extreme medical hardship if she were removed from the United States because he experiences back pain and she is always there to help care for him. She also claims that her spouse would experience extreme emotional hardship if she is denied admission because of their close relationship. In support of this statement the Applicant provided a psychological evaluation of her spouse which indicates he is experiencing symptoms of anxiety and depression because of the Applicant's ongoing immigration issues. The Applicant stated that her spouse would experience financial hardship if she were denied admission because he would be unable to find similar work in Mexico and he would be unable to focus on work in the United States due to needing to care for their children. The Applicant stated her spouse would need to find someone to care for their children and would need to pay them a lot of money for the periods when he is away from home for work. As evidence to support her claim of economic hardship to her spouse, the Applicant provided copies of some utility bills, bank account statements, evidence of her spouse's income, tax documents, and country conditions materials related to the Mexican economy. The Director determined that the collective evidence provided by the Applicant did not establish extreme hardship to her U.S. citizen spouse and denied the requested waiver.

On appeal, the Applicant states that her spouse would experience extreme hardship and asks that we review the evidence provided to the Director along with two additional articles related to country conditions in Mexico. Upon de novo review, the Applicant has not established that her spouse would

[1] The Applicant admits presenting a fraudulent visa at the point of entry to obtain admission to the United States.

experience extreme hardship if the Applicant were to relocate abroad and her spouse were to remain in the United States. The Applicant's claims of medical hardship are unsupported by medical documentation and do not show that her spouse would be unable to manage his medical condition without her assistance. While the economic consequences of her removal may result in additional childcare costs, the Applicant has not shown that those costs would be more than her spouse could afford to the point of causing extreme hardship. We acknowledge the Applicant's arguments related to the emotional, economic, and medical hardship of her spouse if she were to be denied admission, however, the Applicant has not shown that her removal from the United States would result in hardship that is over and above that which is normally associated with separation from a loved one. *See Matter of Pilch*, 21 I&N Dec. 627, 630-31 (BIA 1996). As a result, the Applicant has not met her burden of proof to establish that her spouse would experience extreme hardship if she were to relocate to Mexico and he were to remain in the United States.

We further acknowledge the claims of the Applicant that her children would experience extreme hardship if she were removed from the United States. However, hardship to a non-qualifying family member may only be considered in as much as it effects the qualifying relative. *Matter of Gonzalez Recinas*, 23 I&N Dec. 467, 471 (BIA 2002). Other than the above stated claim regarding the economic hardship of childcare and an inability to focus on work, the Applicant has not provided additional arguments related to how the hardship her children would experience would affect her qualifying relative.

After a complete review of the record, the totality of the evidence remains insufficient to establish that the emotional, medical, and financial hardships of the Applicant's spouse, considered individually and cumulatively, would exceed those which are usual or expected if he remains in the United States and is separated from the Applicant. Thus, the Applicant has not shown that her spouse would experience extreme hardship. Because the Applicant has not demonstrated extreme hardship to her qualifying relative, her U.S. citizen spouse, upon separation, we need not consider whether he would experience extreme hardship upon relocation to Mexico or whether the Applicant merits a waiver in the exercise of discretion and, therefore, reserve those issues. *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.