U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 9945502

DATE: JULY 20, 2020

Appeal of Cincinnati, Ohio Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of Ghana, seeks a waiver of inadmissibility under section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i), for fraud or misrepresentation.

The Director of the Cincinnati, Ohio Field Office denied the application, concluding that the record did not establish that the Applicant's only qualifying relative, her U.S. citizen spouse, would experience extreme hardship because of her continued inadmissibility.

In these proceedings, it is the Applicant's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Except where a different standard is specified by law, an applicant must prove eligibility for the requested immigration benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (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

Any foreign national 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 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 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).

In addition to demonstrating the required extreme hardship under section 212(i) of the Act, the foreign national must also show that U.S. Citizenship and Immigration Services (USCIS) should favorably exercise its discretion and grant the waiver.

II. ANALYSIS

The issue on appeal is whether the Applicant has established extreme hardship to her qualifying relative U.S. citizen spouse.[1] The record does not establish that the Applicant's spouse would experience extreme hardship due to her continued inadmissibility. Our decision is based on a review of the record, which includes, but is not limited to, statements from the Applicant and her spouse, medical records and articles, financial records, educational records, and information on conditions in Ghana.

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 the applicant's evidence demonstrates 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 contain a statement from the Applicant's spouse clearly indicating the intention to either remain in the United States or relocate to Ghana if the Applicant's 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 asserts that her spouse would experience emotional, financial, and physical hardship if he remained in the United States without her. The Applicant's spouse states that he has raised his three children, ages 10, 15, and 17, on his own since their mother passed away, and the Applicant now helps raise them. He states that he would experience emotional hardship in raising them without the Applicant, and is currently experiencing anxiety, insomnia, and feelings of guilt and hopelessness. Furthermore, the Applicant's spouse claims that the Applicant's assistance with his children, two who are on individualized education plans, and household work allows him to work and be the family breadwinner. He states that he has asthma, hypertension, and a knee condition causing pain, he details potential complications from hypertension, and he mentions that he needs the Applicant's emotional and physical support to care for him, take him to his medical appointments, and to pick up his medicine.

[1] The Applicant was found to be inadmissible under section 212(a)(6)(C)(i) of the Act for willfully committing fraud or misrepresentation, and she does not contest that finding on appeal. The record shows that on July 7, 2003, she was admitted to the United States with a fraudulent B1/2 nonimmigrant visa and passport.

The record reflects that the Applicant's spouse would experience emotional hardship due to separation from the Applicant. However, this hardship alone does not rise to the level of extreme. Furthermore, the record does not establish the level of the Applicant's involvement in her stepchildren's lives and how the hardship they experience would affect her spouse. The Applicant has not provided sufficient documentation to show that his spouse would experience financial hardship without her. While the Applicant has provided medical records related to her spouse's medical issues, they do not indicate his medical issues would affect his ability to work or that she is required to care for him. Considering all the evidence in its totality, the record is insufficient to show that the hardships faced by the Applicant's spouse upon separation from the Applicant would rise beyond the common results of removal or inadmissibility. We find that the Applicant has not established that her spouse would experience extreme hardship if her waiver application is denied.

The Applicant must establish that denial of the waiver application would result in extreme hardship to her spouse upon both separation and relocation. As the Applicant has not established extreme hardship to her spouse in the event of separation, 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.