U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 5657174

DATE: JUNE 2, 2020

Appeal of Providence, Rhode Island Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

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

The Director of the Providence, Rhode Island Field Office denied the application, concluding the record did not establish her only qualifying relative, her lawful permanent resident mother, 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). 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 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 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).

II. ANALYSIS

The issue on appeal is whether the Applicant has established extreme hardship to her mother.[1] We find that the record does not establish that the Applicant's mother 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 mother, a psychological evaluation, medical records, and information on conditions in the Dominican Republic.

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 Director found that statements in the record show that the Applicant's mother would remain in the United States. However, on appeal the Applicant requests that both separation and relocation be addressed. The Applicant must therefore establish that if she is denied admission, her mother would experience extreme hardship both upon separation and relocation.

The Applicant asserts that if her 72-year-old mother with health issues remained in the United States, she would experience hardship due to the loss of her role as caregiver. The Applicant's mother states that she started to live with one of her daughters in 2011 and the Applicant moved in with them in April 2018. She also states that six of her daughters' children also reside with her. The record shows that the Applicant's children who reside with them are above the age of 19. The Applicant mentions that her mother is a widow and relies on her for constant home care, and her sister works full-time and is not able to provide that type of care. The Applicant claims that there are no other family members that are able to provide homecare, and the cost of a homecare provider is prohibitive.

The Applicant asserts that her mother has multiple cognitive issues, suffers from a lack of mobility, and is a threat to herself due to her health issues. The Applicant's mother claims that her health problems include osteoporosis, high cholesterol, high blood pressure, anxiety, and depression. Her medical records show that she has a history of these issues, and a psychological evaluation includes diagnoses of several disorders along with a recommendation for further neurologic and psychiatric evaluations.

Furthermore, the Applicant's mother claims that separation from the Applicant and the Applicant's adult children, who she indicates would move to the Dominican Republic, would cause her emotional hardship, and she would be concerned about the health of her grandchildren due to the inability to afford medical care in the Dominican Republic.

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[1] The Applicant was found to be inadmissible under section 212(a)(6)(C)(i) of the Act for willfully committing fraud or misrepresentation in regard to a March 2006 B1/B2 nonimmigrant visa application. The Applicant does not contest this finding on appeal. The record reflects that in her visa application she did not reveal her prior unauthorized stay in the United States, and this information would have resulted in her being inadmissible under section 212(a)(9)(B)(i) of the Act for accruing 1 year or more of unlawful presence.

The record reflects that the Applicant's mother would experience emotional hardship upon separation from the Applicant. However, this hardship alone does not rise to the level of extreme. The Applicant's mother resided with her other daughter for many years prior to the Applicant moving in with them. Furthermore, the Applicant states that all of her mother's strong family ties reside in the United States with legal status, and they have established roots in the United States. The Applicant has not established that any of her siblings would be unable to care for their mother. In regard to the Applicant's mother's psychological issues, there is no evidence that she followed the recommendation for further evaluation and therefore the level of her psychological issues is not clear. In addition, while the Applicant has submitted evidence of her mother's medical issues, the severity of those conditions and the level of assistance she requires is not clear from the record. Lastly, the Applicant has not submitted sufficient evidence to establish that her children would be unable to receive appropriate medical treatment in the Dominican Republic and therefore that her mother would experience emotional hardship from this. Considering all of the evidence in its totality, the record is insufficient to show that the hardship faced by the Applicant's mother would rise beyond the common results of removal or inadmissibility if she remained in the United States. We find that the Applicant has not established that a qualifying relative 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 a qualifying relative upon both separation and relocation. As the Applicant has not established extreme hardship to a qualifying relative in the event of relocation, 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.