U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 8621730

Date: JULY 17, 2020

Appeal of Lawrence, Massachusetts Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant has applied to adjust status to that of a lawful permanent resident and seeks a waiver of inadmissibility under section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i).

The Director of the Lawrence, Massachusetts Office denied the application, concluding that the record did not establish, as required, that denial of admission would result in extreme hardship to the Applicant's qualifying relative.

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. Upon *de novo* review, we will dismiss the appeal because the Applicant has not met this burden.

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's qualifying relative would experience extreme hardship if the waiver is denied. The Applicant does not contest the finding of inadmissibility for fraud or misrepresentation, a determination supported by the record, which establishes that he misrepresented his marital status when applying for a nonimmigrant visa in 2010. We have considered all the evidence in the record and conclude that it does not establish that the claimed hardships rise to the level of extreme hardship when considered both individually and cumulatively.

The Applicant must demonstrate that denial of the application would result in extreme hardship to a qualifying relative or qualifying relatives, in this case his U.S. citizen spouse. 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 an applicant's evidence establishes 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 contains no statement from the Applicant's spouse indicating she intends to remain in the United States or relocate to South Korea if the 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 record reflects that the Applicant and his spouse married in [redacted] 2016 and have a daughter born in 2018 and another child on the way. The Applicant's spouse asserts that the Applicant is the primary wage earner. She states that she is pursuing a bachelor's degree and intends to attend graduate school for nursing. She contends that if separated from the Applicant, she will experience emotional and financial hardship resulting from trying to fulfill the role of caregiver to her children, obtaining fulltime employment, and meeting the family's living expenses without the Applicant's support. She maintains that she would also incur additional expenses, including childcare and travel to South Korea. She further maintains that the Applicant would be unable to provide sufficient financial support to his family due to South Korea's poor economy. She also states that she and the Applicant are originally from the Democratic Republic of the Congo (DROC) and visiting the Applicant in South Korea would be emotionally difficult due to prevalent racial discrimination in South Korea.

We find that the submitted documentation is insufficient to corroborate the claim of extreme hardship upon separation. With respect to financial hardship, the record contains inconsistent information regarding the Applicant's spouse's employment status. While the Applicant's spouse contends that she only works 24 hours per week, the record contains copies of the Applicant's spouse's paystubs, dated from April 2019 to June 2019, indicating that the Applicant's spouse worked between 70 and 80 hours per week. In addition, the record does not contain any tax documentation reflecting the Applicant's and his spouse's annual income, and we are therefore unable to assess the couple's current financial status. Further, the record does not demonstrate that the Applicant would be unable to obtain employment in South Korea and contribute to support his spouse and children, given that the Applicant has an engineering degree from a South Korean university and worked for a South Korean

multinational conglomerate before entering the United States in 2016. The record further reflects that the Applicant resided in South Korea for 14 years before traveling to the United States.

With respect to emotional hardship, the record contains a psychological evaluation indicating that the Applicant's spouse and her family were forced to leave DROC when she was eight years old due to insecurity in the country. The evaluation states that the Applicant's spouse has a history of post-traumatic stress resulting from having grown up in a war-torn country. The evaluation concludes that if separated from the Applicant, his spouse would be vulnerable to serious anxiety and depression due to her history of displacement. While we acknowledge the Applicant's spouse's statements and the findings in the psychological evaluation regarding the difficulties that separation from the Applicant may cause her, the record does not contain further detail about the impact of any emotional hardship the Applicant's spouse may experience in her daily life or demonstrate that the Applicant's spouse would experience hardship that exceeds that which is usual or expected due to separation from a loved one. Further, the record does not demonstrate that the Applicant's spouse's U.S. citizen parents or six U.S. citizen siblings, who live within proximity to the Applicant's spouse, would be unable to provide her with emotional support.

Based on the record, we cannot conclude that, when considered in the aggregate, any financial and emotional hardships the Applicant's spouse would experience upon separation from the Applicant would go beyond the common results of inadmissibility or removal and rise to the level of extreme hardship.

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 his qualifying relative in the event of separation, we cannot conclude he has met this requirement. The waiver application will remain denied.

ORDER: The appeal is dismissed.