U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 29885595

Date: SEP. 16, 2024

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 China 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 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 Form I-601, Application for Waiver of Grounds of Inadmissibility (waiver application), concluding that the record did not establish that the Applicant's U.S. citizen spouse, a qualifying relative, would experience extreme hardship because of her continued inadmissibility. The matter is now before us on appeal pursuant to 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

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 LPR spouse or parent of the foreign national. If the foreign national demonstrates the existence of the required hardship, then they must also show that USCIS should favorably exercise its discretion and grant the waiver. 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 Applicant was found inadmissible under section 212(a)(6)(C)(i) of the Act for fraud or misrepresentation. Specifically, she misrepresented her marital status on a September 2015 nonimmigrant visa application when she stated that she was married although divorced. The Applicant does not contest this finding on appeal. The Director found that she did not establish extreme hardship to her spouse. The issue on appeal is whether the Applicant has established extreme hardship to her U.S. citizen spouse. 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, documents listed in the Director's decision and documents submitted on appeal, including the Applicant's spouse's updated statement, medical records, a psychological evaluation, and photographs. We note, as did the Director, that most of the evidence submitted with the waiver application was submitted with the Applicant's previously denied waiver application from 2020.

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 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 contains a statement from the Applicant's spouse indicating his intention to relocate to China if the Applicant's waiver application is denied. The Applicant must therefore establish extreme hardship to her spouse upon relocation to China.

The Applicant asserts that the Director used speculation and conjecture to downplay the hardship her spouse would experience as a Christian in China, improperly discounted the hardship her spouse would experience by blaming him for his decision to relocate to China, and failed to consider all relevant hardship factors in the aggregate. We will address all the Applicant's spouse's hardship factors upon relocation to China in our de novo review. First, the Applicant claims that her spouse would experience hardship upon relocation to China due to separation from his family in the United States. The Applicant's spouse, who resides in Wisconsin, mentions that he would be separated from his adult sons and two granddaughters in Texas and his mother in Colorado. Second, the Applicant's spouse states that he would be unable to find employment in China due to his inability to speak Mandarin and he does not have any other skills to make money in China. Third, he mentions that he would not be

able to obtain medical care, and he would experience hardship as he has sleep apnea and physical limitations from many years of playing sports and manual labor. The Applicant's spouse's prior physician mentions that they were meeting regularly for management of mood and anxiety-related issues. The record includes a statement for insurance reimbursement for treatment he received from June 2021 until January 2023 from a psychiatry practice. The Applicant's spouse's current medical provider states that he is being seen for generalized anxiety disorder and mild major depressive disorder. The Applicant's spouse's medical records and psychological evaluation reflect that he is taking medication for depression and anxiety, he has chronic sleep issues, and he has had surgeries many years ago for sport-related injuries. Finally, the Applicant's spouse claims that he would be persecuted by the Chinese government based on his Christian faith. He states that he has been a Christian his whole life, he went to a Christian college, he has taught Sunday and vacation bible school, and he has served communion, among many other religious activities. He lists various churches he has attended and states he is an active Christian in his daily life. The Applicant includes photographs of her spouse's bibles and church. The psychological evaluation also describes the Applicant's spouse's upbringing as a Christian.

The record reflects that the Applicant's spouse would experience hardship upon relocation to China due to his inability to speak the language, separation from his family in the United States, and general difficulty in moving to a foreign country. However, the Applicant has not established that her spouse's hardship, in the aggregate, rises to the level of extreme hardship. We note that most of the information on country conditions in China is from several years ago. The Applicant has not provided sufficient evidence to establish her spouse would be unable to find employment in China or would otherwise experience financial hardship there. Additionally, the record does not include sufficient evidence to establish the Applicant's spouse would be unable to obtain medical treatment and therefore experience medical hardship in China. Last, while the record reflects that the Applicant's spouse is a practicing Christian, the record does not include sufficient evidence to establish that he would be persecuted based on his religion in China. Considering all the evidence in its totality, the record is insufficient to show that the hardships faced by the Applicant's spouse upon relocation to China 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 upon relocation to China if her waiver application were denied.

As the Applicant has not established extreme hardship to her spouse, 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.