U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 27504425

Date: SEP. 11, 2023

Appeal of Hartford, Connecticut Field Office Decision

Form I-601, Application for Waiver of Grounds of Inadmissibility

The Applicant, a native and citizen of Jamaica 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 refusal of admission would result in extreme hardship to a qualifying relative or qualifying relatives.

The Director of the Hartford, Connecticut Field Office denied the application, concluding that the record did not establish that the Applicant's U.S. citizen spouse would experience extreme hardship if he were denied admission to the United States. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Applicant asserts that he has met his burden of proof to establish extreme hardship to his U.S. citizen spouse.

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 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, 8 U.S.C. § 1182(a)(6)(C)(i). 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 noncitizen. 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).

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. 9 *USCIS Policy Manual* B.4(B), https://www.uscis.gov/legal-resources/policy-memoranda. An applicant may submit evidence demonstrating which of the scenarios would result from a denial of admission and may establish extreme hardship to one or more qualifying relatives by showing that either relocation or separation would result in extreme hardship. *See id.* An 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.* In the present case, the Applicant's qualifying relative has stated she intends to relocate to Jamaica with her spouse if the waiver application is denied. Therefore, the Applicant must establish extreme hardship to his U.S. citizen spouse in the event of relocation to Jamaica.

II. ANALYSIS

The Applicant does not contest his inadmissibility on appeal and we incorporate the Director's inadmissibility finding here, by reference.[1] The Applicant claims that his spouse would suffer extreme economic hardship if she were required to relocate with him to Jamaica, her country of former nationality. In her personal statement to the Director, the Applicant's spouse stated that she would be unable to remain in the United States without the Applicant and would experience extreme economic hardship if she were to relocate to Jamaica. The Applicant's spouse further claimed that her three children would be forced to relocate with them to Jamaica because they would be unable to support themselves and would lose out on educational opportunities in the United States. She further claimed that relocating to Jamaica would wipe out the couple's finances and result in losing the equity gained through paying the mortgage on their current residence.

As evidence to support his claims of extreme hardship, the Applicant provided copies of utility bills, bank statements, tax bills, letters of employment confirmation for the Applicant and his spouse, pay stubs for the Applicant's spouse, taxes from 2017, 2018, and 2019, letters of support from friends and family, and country conditions material for Jamaica. The Director determined that the information provided was insufficient to establish extreme hardship to the Applicant's U.S. citizen spouse stating that the economic consequences of relocation were not over and above those normally experienced as a result of denial of admission. The Director further concluded that the Applicant's spouse has family ties to Jamaica, two of her U.S. citizen children are adults and not required to relocate with her, and

[1] The Applicant admits to providing false information to the Department of State on his non-immigrant visa application to obtain a visitor visa to the United States.

that the Applicant's family ties, including five children from prior relationships, would lessen the burden of moving to Jamaica.

On appeal, the Applicant did not provide any additional documentary evidence but argues that the Applicant's spouse only has one relative remaining in Jamaica, that the Director did not fully consider the country conditions in Jamaica when making their determination regarding extreme hardship, and that the economic circumstances are sufficient to establish extreme hardship. Upon de novo review, the Applicant has not provided sufficient evidence of extreme hardship to his U.S. citizen spouse upon relocation to Jamaica.

The Applicant claims that his spouse would lose her family ties to the United States if she relocated to Jamaica and that his spouse's sister is the sole family member remaining in Jamaica. However, evidence in the record indicates that the Applicant's parents and children from a previous relationship reside in Jamaica. The Applicant has not provided any evidence that his parents are unable or unwilling to support him and his spouse while they adjust to living in Jamaica.

The Applicant argues that his spouse would experience economic hardship if she were to return to Jamaica because she would lose her job as a certified nursing assistant, would be forced to sell her home, and be unable to find suitable employment in Jamaica. To support this claim before the Director the Applicant provided news articles regarding poverty in Jamaica and information from various reference websites regarding general conditions of poverty and unemployment in Jamaica. However, the country condition documentation does not establish that the Applicant's spouse would be unable to find suitable employment in her chosen career path in Jamaica. Loss of employment and assets in the United States upon relocation are common effects of denial of admission and do not, in and of themselves, constitute extreme hardship. *See Matter of Pilch*, 21 I&N Dec. 627, 630-31 (BIA 1996); *see also Matter of Ngai*, 19 I&N Dec. 245 (BIA 1984) ("common results of the bar, such as separation, financial difficulties, etc. in themselves are insufficient to warrant approval of an application unless combined with much more extreme impacts.").

The Applicant also provided country condition materials related to crime in Jamaica, including Department of State travel advisories. The material indicates that there are portions of Jamaica that are unsafe for travel and where there are significant obstacles to maintaining the rule of law. In the current case the Applicant has not indicated where in Jamaica he and his family would relocate or identified any specific threats the safety of his spouse. Nevertheless, we consider the crime rate in Jamaica and the presence of a Level 3 travel warning as factors when considering whether the Applicant has established extreme hardship to his spouse.

The Applicant also argues that his three children, including two stepchildren, would be forced to relocate to Jamaica and miss out on the educational opportunities in the United States. The Applicant further states that his stepson has had behavioral issues in the past that have been well managed in the United States and relocating to Jamaica would cause a setback in his progress. However, hardship to non-qualifying family members can only be considered in as much as they relate to the hardship experienced by the qualifying relative. *Matter of Gonzalez Recinas*, 23 I&N Dec. 467, 471 (BIA 2002).

We acknowledge that the Applicant's spouse would experience some hardship, including economic hardship and fear for her safety, upon relocation to Jamaica. However, even considering the evidence in its totality, he has not established his eligibility for a waiver under section 212(i) of the Act, as the evidence of record does not show that the claimed hardship to his spouse would go beyond the common results of denial of admission to the United States and amount to extreme hardship. Because the Applicant has not demonstrated extreme hardship to a qualifying relative if he is denied admission, we need not consider whether he merits a waiver in the exercise of discretion. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting that "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 therefore remain denied.

ORDER: The appeal is dismissed.