U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31125749

Date: MAY 21, 2024

Appeal of Nebraska Service Center Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of Latvia currently residing in the United Kingdom, has applied for an immigrant visa. A noncitizen seeking to be admitted to the United States as an immigrant must be "admissible" or receive a waiver of inadmissibility. The Applicant has been found inadmissible for being convicted of a crime involving moral turpitude and for committing fraud or misrepresentation, and he seeks a waiver of these inadmissibilities. *See* Immigration and Nationality Act (the Act) section 212(h), 8 U.S.C. § 1182(h) and 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.[1]

The Director of the Nebraska Service Center 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 if he was refused admission to the United States. The Director also concluded that the Applicant's favorable factors did not outweigh his unfavorable factors, and therefore he did not merit a waiver as a matter of discretion. The matter is now before us on appeal. 8 C.F.R. § 103.3.[2]

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.

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[1] Additionally, for a crime involving moral turpitude inadmissibility, a waiver may be granted if the activities for which the noncitizen is inadmissible occurred at least 15 years ago, the noncitizen's admission would not be contrary to the national welfare, safety, or security of the United States, and the noncitizen has been rehabilitated. However, since the Applicant must meet the extreme hardship standard for committing fraud or misrepresentation, no purpose would be served in addressing the alternative waiver standard for a crime involving moral turpitude inadmissibility.

[2] We decline the Applicant's request for oral argument. *See* 8 C.F.R. § 103.3(b)(2).

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 U.S. citizen or lawful permanent resident 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 foreign national convicted of (or who admits having committed, or who admits committing acts which constitute the essential elements of) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime is inadmissible. Section 212(a)(2)(A)(i) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i). Where the activities resulting in inadmissibility occurred more than 15 years before the date of the application, a waiver is available if admission to the United States would not be contrary to the national welfare, safety, or security of the United States, and the foreign national has been rehabilitated. Section 212(h)(1)(A) of the Act. A waiver is also available if denial of admission would result in extreme hardship to a U.S. citizen or lawful permanent resident spouse, parent, son, or daughter. Section 212(h)(1)(B) 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 by a Department of State (DOS) consular officer under section 212(a)(6)(C)(i) of the Act for committing fraud or misrepresentation, and under section 212(a)(2)(A)(i) of the Act for being convicted of a crime involving moral turpitude. The Director summarized the details of these findings of inadmissibility, and we hereby incorporate that summary by reference. The Applicant does not contest the inadmissibility findings on appeal. Furthermore, as the Applicant resides overseas in the United Kingdom and is applying for an immigrant visa, the DOS makes the final determination on his inadmissibility. The issues on appeal are whether the Applicant has established extreme hardship to his U.S. citizen spouse and whether he merits a waiver as a matter of discretion. Our decision is based on a review of the record, which includes, but is not limited to, statements from the Applicant and his spouse, statements in support of the Applicant, a statement from the Applicant's spouse's mother, financial records, medical records, photographs, criminal records, a psychological evaluation, and information on conditions in the United Kingdom.

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 does not contain a statement from the Applicant's spouse clearly indicating the intention to either remain in the United States or relocate to the United Kingdom if the Applicant's waiver application is denied. The Applicant must therefore establish that if he is denied admission, his spouse would experience extreme hardship both upon separation and relocation.

We will first address whether the Applicant's spouse would experience extreme hardship if she relocated to the United Kingdom.[3] First, the Applicant's spouse claims that she would experience emotional hardship due separation from her mother and adult daughter in the United States, as she is close to both. The Applicant's spouse mentions that her mother has high blood pressure and she would be unable to care for her, and her daughter has depression and ADHD and she would be unable to support her. Second, the Applicant's spouse states that she would experience financial hardship in the United Kingdom. She refers to large credit card debt and the inability to find employment. She mentions that she has a paralegal degree, she has worked as a computer aided drafter, she would have to go to school in the United Kingdom as her fields are country-specific, and she would be unable to attend school as she has two young children, ages two and four, to care for. The record includes credit union bills with past due amounts. Third, the Applicant's spouse states that she experienced depression when living in the United Kingdom previously, there is a shortage of mental healthcare providers in the United Kingdom, and she had a bad experience with the healthcare system when delivering her first son. She states that the hospital was short-staffed, she was not monitored in the waiting room, there was no sense of urgency to assist her, a junior surgeon performed her cesarean section, and she experienced post-partum complications from the surgery. Additionally, the Applicant's spouse expresses concern that healthcare for her children would be lacking. The record includes discharge papers and physician's letters regarding her cesarean section, admission to the hospital two weeks later, and three-week follow-up appointment. The documents detail tests and treatment related to multiple issues and conclude with a finding that her uterus appeared normal and there was no evidence of fibroids or an infection. The record also includes a medical record for her youngest child when he lived in the United Kingdom, a medical record reflecting that the Applicant's spouse was prescribed an anti-depressant, an article on a neonatal nurse who was convicted of murdering children at her U.K. hospital, and articles on mistakes made at the hospital the Applicant's spouse went to in the United Kingdom.

The record reflects that the Applicant's spouse would experience difficulty upon relocation to the United Kingdom. However, the record does not establish that her potential hardship rises to the level of extreme hardship. Although the record does not establish that the Applicant's spouse's mother requires her to care for her, we acknowledge that the Applicant's spouse would experience emotional

[3] The Applicant states that he came to the United Kingdom in 1998 and claimed asylum. The record reflects that he has been residing in the United Kingdom since then.

hardship due to separation from her mother. Additionally, she would experience emotional hardship due to separation from her adult child. In regard to financial hardship, the record reflects that the Applicant's spouse has credit card debt. The Applicant has not provided sufficient evidence of his current income and expenses in the United Kingdom, and the record does not establish that his spouse would be unable to find employment there. Therefore, the level of financial hardship is not clear from the record. Regarding the Applicant's spouse's medical hardship claim and issues with the healthcare system in the United Kingdom, the record does not establish that she was misdiagnosed or has any issues relates to her cesarean section. Additionally, the record does not include sufficient evidence establishing she would be unable to obtain her current medication there or psychological treatment, or that her children would be unable to receive suitable treatment. Considering all the evidence in its totality, the record is insufficient to show that the hardship faced by the Applicant's spouse upon relocation to the United Kingdom would rise beyond the common results of removal or inadmissibility. Therefore, the Applicant has not established that his spouse would experience extreme hardship upon relocation if his waiver application were denied.

The Applicant must establish by a preponderance of the evidence that denial of the waiver application would result in extreme hardship to his spouse upon both separation and relocation. As the Applicant has not established extreme hardship to his spouse in the event of relocation to the United Kingdom, we cannot conclude he has met this requirement.

Because this issue is dispositive for the Applicant's appeal, we decline to reach and hereby reserve the Applicant's appellate arguments regarding whether he merits a favorable exercise of discretion. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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).

ORDER: The appeal is dismissed.