U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31818904

Date: NOV. 22, 2024

Appeal of Philadelphia, Pennsylvania Field Office Decision

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

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 Philadelphia, Pennsylvania Field Office denied the Applicant's Form I-601, Application for Waiver of Grounds of Inadmissibility, after concluding she was inadmissible under section 212(a)(6)(C)(i) of the Act for fraud and misrepresentation and that the record did not establish that her lawful permanent resident mother, the qualifying relative, would suffer extreme hardship if the Applicant was refused admission to the United States as required for a section 212(i) waiver of 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

Section 212(a)(6)(C)(i) of the Act renders inadmissible 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, admission into the United States, or other benefit provided under the Act. Section 212(i) of the Act provides a waiver of the above ground of inadmissibility if refusal of admission would result in extreme hardship to a U.S. citizen or lawful permanent resident spouse or parent of the noncitizen. If a noncitizen demonstrates the existence of the required hardship, then they must also show they merit a favorable exercise of discretion on their waiver request. *Id*.

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). 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).

II. ANALYSIS

The Applicant, a citizen of Liberia, seeks to adjust her status to that of a lawful permanent resident. The record reflects that the Applicant was the beneficiary of a Form I-730, Refugee/Asylee Relative Petition, filed by her stepfather that was approved in 2005 when the Applicant was 20 years old, and which classified the Applicant as a child of an asylee. *See* 8 C.F.R. § 208.21(d) (describing the availability of derivative asylee status for spouses and children of asylees); *see also* section 101(b) of the Act (defining "child" as "an unmarried person under [21] years of age"). In support of the Form I-730, the Applicant submitted a form titled "Statement of Marriageable Age" containing language including that she did "hereby swear and affirm that I am not married." The form also included language confirming that she fully understood that she would lose her right to immigrate to the United States if she was in fact married at the time of her application or at the time of her entry into the United States. *See* 8 C.F.R. § 208.22 (stating the approval of a request for derivative asylee status remains valid while a child is under 21 years of age and *unmarried*). The Applicant signed the form in April 2006. Based on this and other evidence establishing her eligibility, the Applicant was able to enter the United States as a derivative asylee in July 2006. In October 2006, however, the Applicant submitted an Affidavit of Relationship (AOR) to allow her family members to enter the United States, indicating for the first time that she had been married as of October 2002.

The Director concluded that the Applicant was inadmissible under section 212(a)(6)(C)(i) of the Act because she willfully misrepresented her marital status as unmarried to obtain derivative asylee status as the child of an asylee when she was in fact married. The Director then determined that while the Applicant's lawful permanent resident mother was a qualifying relative for purposes of the section 212(i) waiver of this inadmissibility ground that the Applicant sought, the evidence did not establish the qualifying relative would suffer the requisite extreme hardship if the Applicant were refused admission into the United States as required for the waiver. Because the Applicant did not establish extreme hardship to a qualifying relative, the Director denied the Form I-601.

To be found inadmissible for fraud or willful misrepresentation, there must be at least some evidence that would permit a reasonable person to find that the Applicant used fraud or willfully misrepresented a material fact in an attempt to obtain an immigration benefit. *See INS v. Elias-Zacarias,* 502 U.S. 478 (1992). A misrepresentation is material under section 212(a)(6)(C)(i) of the Act when it tends to shut off a line of inquiry that is relevant to the foreign national's admissibility and that would predictably have disclosed other facts relevant to his or her eligibility for a visa, other documentation, or admission to the United States. *Matter of D-R-*, 27 I&N Dec. 105 (BIA 2017). The burden of proof is always on the Applicant to establish admissibility. *See Matter of Arthur*, 16 I&N Dec. 558, 560 (BIA 1978).

The Applicant does not contest on appeal, that misrepresenting marital status to a U.S. government official to obtain derivative asylee status as the child of an asylee is a material misrepresentation. Instead, she claims she is not inadmissible for fraud or willful misrepresentation because she was actually not legally married at the time she sought derivative asylee status and therefore did not misrepresent her marital status when seeking to obtain that status as the beneficiary of the Form I-730

filed on her behalf. She further claims she included her spouse in the AOR under duress and thus did not willfully misrepresent her marital status on that form, and regardless, the completion of the AOR was not for her own immigration benefit. Alternatively, the Applicant asserts that even if she is inadmissible under the above section of the Act, she is eligible for a section 212(i) waiver of such inadmissibility because refusal of admission would result in extreme hardship to her lawful permanent resident mother based on familial, emotional, financial, and medical hardships.

The record does not support the Applicant's assertions on appeal. We acknowledge and do not seek to diminish the abuse the Applicant describes suffering during her relationship with her spouse, or her assertion that she was made to include him in the AOR under duress. However, regardless of whether the Applicant was forced against her will to include her spouse in the 2006 AOR she signed, the issue here is whether she willfully misrepresented herself when she previously attested that she was unmarried on her Statement of Marriageable Age that was submitted in support of the Form I-730 filed on her behalf. The Applicant conceded in a statement with her Form I-601 that she began her relationship with her spouse in 2000, participated in a traditional marriage ceremony with him in 2002, and has children through that marriage. Despite her claim that the ceremony did not result in a legal marriage under the laws of her country, the U.S. Department of State Visa Reciprocity Schedule for Liberia she provided states that "Liberia recognizes two different types of marriage: traditional and western," thus reflecting that her traditional marriage is recognized as a legal marriage under Liberian laws. Other evidence in the record, including statements from family members and a death certificate for her spouse, do not specifically address the Applicant's or her spouse's marital history. We therefore find the Applicant has not met her burden of proof in overcoming the derogatory evidence reflecting she willfully misrepresented her marital status as unmarried in her 2006 AOR to obtain derivative asylee status as the child of an asylee. Accordingly, the record establishes that she is inadmissible under section 212(a)(6)(C)(i) of the Act.

Because the Applicant is inadmissible under section 212(a)(6)(C)(i) of the Act, she must establish eligibility for a section 212(i) waiver of her inadmissibility by demonstrating, in part, that a qualifying relative would suffer extreme hardship if she were refused admission. 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. *See generally* 9 *USCIS Policy Manual* B.4(B), https://www.uscis.gov/policymanual (providing guidance on the scenarios to consider in making extreme hardship determinations). Demonstrating extreme hardship under both these scenarios is not required if the applicant's evidence demonstrates that one of these scenarios would result from the denial of the waiver. *See id.* (citing to *Matter of Calderon-Hernandez*, 25 I&N Dec. 885 (BIA 2012) and *Matter of Gonzalez Recinas*, 23 I&N Dec. 467, 467 (BIA 2002)). 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, because the record does not clearly identify whether her qualifying relative mother will remain in the United States or relocate, the Applicant must establish that if she is denied admission, her mother would experience extreme hardship both upon separation and relocation.

In support of her Form I-601, the Applicant provided, in part, a statement wherein she generally claimed that her mother and stepfather would suffer emotionally, medically, and financially if they

were separated from the Applicant. The Applicant also provided statements from her mother, stepfather, three daughters, and her pastor, as well as medical records for her mother.

After reviewing the relevant hardship evidence in the record, including the personal statements and medical documentation provided, the Applicant has not established the requisite extreme hardship to her mother upon separation.[1]

Collectively, the record reflects that the Applicant is currently 40 years old and that she first arrived in the United States in 2006 when she was 21 years old. Her mother, stepfather, sister, and three children (aged 24, 19, and 18) also live in the United States. Her mother, stepfather, and sister live together. The Applicant is employed as a certified nursing assistant. Her stepfather and sister are also employed. The record also indicates that her mother has been diagnosed with chronic kidney disease.

The Applicant claims that her mother would suffer emotionally and medically due to her chronic kidney disease diagnosis. The Applicant states that while her stepfather is employed, she has a flexible work schedule that allows her to share in providing care for her mother. She explains that she bathes and prepares food for her mother and helps with chores and transportation to medical appointments. She states that her sister, despite living with her mother and stepfather, is unable to provide care because of her own job and child to care for. The Applicant's mother similarly states that the Applicant supports her by bathing, cooking, cleaning, and driving for her as well as buying her cold and fever medications. She states that the Applicant gives her hope and relief that someone cares for her.

We acknowledge the Applicant's general assertions that her mother and their family would suffer emotionally and medically from separating, as well as the medical documentation in the record shows the Applicant's mother was diagnosed with chronic kidney disease. The documentation and the statements from the Applicant and family members in the record, however, do not clarify or provide sufficient probative information regarding the nature and severity of her medical condition or related symptoms; how her condition affects her daily activities or employment; to what degree she is dependent on the Applicant to alleviate her symptoms. Similarly, the Applicant's and her family's statements only generally touch on the emotional impact of separation but otherwise lacks sufficient detail to establish that the claimed emotional and familial hardship to the Applicant's mother would exceed that which is usual or expected upon separation.

The Applicant also claims that her mother would suffer financially upon separation. She states that while her stepfather is employed and is able to support her mother financially, he would have to quit his job in order to provide the medical care that she currently provides to her mother if she departed the United States. Beyond this general assertion, however, the record lacks sufficient probative detail or other evidence that corroborates the Applicant's assertions and is insufficient to establish the

[1] As noted above, the Applicant claimed hardship to both her lawful permanent resident mother and U.S. citizen stepfather in her Form I-601. The Director erroneously determined that the mother was the only qualifying relative and limited their hardship determination to that relationship. The Applicant does not raise this error or assert on appeal that her stepfather would suffer extreme hardship and we therefore need not consider it further. *See, e.g.*, *Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012) (holding an issue not raised on appeal is waived); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (declining to address a "passing reference" to an argument in a brief that did not provide legal support).

claimed financial hardship would be unusual or beyond that which would normally be expected. We also note that the Applicant's sister is employed and lives with the mother and stepfather, and that the Applicant has three adult children. The Applicant does not claim, and the record does not otherwise indicate, that her sister or children would be unable or unwilling to provide the financial, emotional, or physical support her mother may need if she were separated from the Applicant.

III. CONCLUSION

When considering the above factors in the aggregate, the Applicant has not established by a preponderance of the evidence that any hardship her mother would face as a result of separation rises to the level of extreme hardship. As noted above, the Applicant must establish that denial of the waiver application would result in extreme hardship to her mother both upon separation and relocation. As the Applicant has not established extreme hardship to her mother in the event of separation, she has not met this requirement. The Applicant did not specifically address on appeal the extreme hardship claim with respect to her mother if she were to relocate with the Applicant; however, because our finding that she did not establish extreme hardship upon separation is dispositive to this case, we need not address the relocation scenario and hereby reserve the issue. *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"). Similarly, because the Applicant has not demonstrated extreme hardship to a qualifying relative if she is denied admission, we need not consider whether she merits a waiver in the exercise of discretion. The section 212(i) waiver application will therefore remain denied.

ORDER: The appeal is dismissed.