IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 93-4001
Summary Calendar

LUIS ARMANDO VEGA-ALMENDARES, TERESA DE JESUS VEGA-PEREZ, MARIA CAROLINA VEGA-PEREZ, and LUIS MARIANO VEGA-PEREZ,

Petitioners,

v.

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

Petition for Review of an Order of
Immigration and Naturalization Service
(A27 700 000, A27 914 451, A27 914 3253 & A28 334 165)

August 18, 1993

Before KING, DAVIS and WIENER, Circuit Judges.

PER CURIAM:[*]

On October 11, 1991, deportation proceedings were commenced against Luis Vega-Almendares, his wife Theresa De Jesus Vega-Perez, his daughter Maria Carolina Vega-Perez, and his son Luis Mariano Vega-Perez (collectively, the Vegas). At the deportation

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[*]Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

hearing, the Vegas conceded their status as deportable aliens. They then applied for suspension of deportation. After a June, 1992 hearing, their application was denied by the immigration judge, who granted them six months in which to depart the United States voluntarily in lieu of deportation. Petitioners appealed to the Board of Immigration Appeals (BIA), which affirmed the immigration judge's order. Petitioners now appeal from the BIA's decision to this court. We affirm.

I. Background

The Vegas and their children are natives and citizens of Nicaragua. In June, 1985, they fled to the United States in order to escape Nicaragua's political unrest and settled in Texas. Although the parents both worked as elementary school teachers in Nicaragua, they have been employed in the clothing industry in the United States. Their only son is now eight years old and has lived most of his life in Texas. He is fluent in Spanish and speaks it with his parents in their home. One of their daughters, the only daughter involved in the deportation proceedings, is nineteen years old. She graduated from Plano Senior High School and is now attending community college and working for a travel agency. Their oldest daughter, Soraya, who is twenty-three years old, is not involved in the deportation proceedings. She suffers from a severe case of systemic lupus erythematosus (Lupus) and has accordingly been granted a temporarily extended stay in the United States by the Immigration and Naturalization Service (INS). Mrs. Vega's mother and one of

her sisters are legal permanent residents of the United States. Her brother is a United States citizen and has filed a visa petition on her behalf, which has been approved; however, it could be a number of years before the petition's priority date becomes current.

In October, 1991, the INS began deportation proceedings against the Vega family pursuant to 8 U.S.C. § 1251(a)(1)(B), for entering the United States without inspection. The Vegas, acknowledging their deportable status, applied for suspension of deportation on the grounds that they met the three conditions required by 8 U.S.C. § 1254 before suspension of deportation can be granted: (1) they had been physically present in the United States for a continuous period of more than seven years; (2) they were each of good moral character; and (3) their deportation would result in "extreme hardship" to them and to their relatives who are either citizens or legal permanent residents of the United States. The INS conceded that the Vegas had established that they met the first two conditions but argued that their deportation would not result in any "extreme hardship." The immigration judge limited the hearing accordingly and determined that the Vegas had established neither that they would suffer "extreme hardship" as a result of their deportation, nor that their relatives with permanent legal status in the United States would suffer such hardship.[1] The immigration judge then granted

[1] The immigration judge held that the only member of the Vega family with permanent legal status in the United States who might qualify for extreme hardship was the mother of Mrs. Vega.

the family six months in which to depart the United States voluntarily. The Vegas appealed to the BIA, which affirmed the order. They now appeal from the BIA's judgment to this court.

II. Discussion

The only issue raised by this appeal is whether the Vegas met the "extreme hardship" requirement for suspension of deportation. The Vegas argue that the BIA erred substantively when it failed to find that "extreme hardship" was established by the following factors: first, they argue that if deported, they would face economic difficulties, as well as problems readjusting to life in Nicaragua. In particular, the parents contend that the poor economy in Nicaragua would prevent them from finding employment in teaching, which was their profession before they came to the United States. They also note that their son was only fifteen months old when he left Nicaragua and has only known life in the United States. Their younger daughter contends that her academic credentials would not be credited in Nicaragua, and she testified that she does not want to leave her friends in the United States. The Vegas also argue that they would suffer unique hardship from deportation because of their need to care for their eldest daughter Soraya, who suffers from Lupus. They note that Soraya needs almost constant care, that they would not be able to leave her in the United States without their

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However, he noted that Mrs. Vega's mother travels regularly to Nicaragua and accordingly would not suffer extreme hardship from the Vegas' deportation. The Vegas did not challenge this determination on appeal. We accordingly do not address it in our discussion.

assistance, and that they believe that the medical facilities in Nicaragua would be inadequate to provide her with the care she requires. Finally, the Vegas argue that the BIA erred procedurally in that it considered the economic and social hardships anticipated by the Vegas separately from the hardship imposed by the need to care for Soraya.

We review a finding that the "extreme hardship" requirement has not been met in a suspension of deportation proceeding for abuse of discretion. See Vargas v. INS, 826 F.2d 1394, 1396 (5th Cir. 1987). This court has held that

> in the substantive review of a no "extreme hardship" determination, we are entitled to find that the BIA abused its discretion only in a case where the hardship is uniquely extreme, at or closely approaching the outer limits or the most severe hardship the alien could suffer and so severe that any reasonable person would necessarily conclude that the hardship is extreme.

Hernandez-Cordero v. INS, 819 F.2d 558, 561-62 (5th Cir. 1987). In essence, we have "virtually no substantive review of the BIA's `extreme hardship' finding." Hernandez-Cordero, 819 F.2d at 563; see also Vargas, 826 F.2d at 1397. Moreover, our procedural review is "limited to ascertaining whether any consideration has been given by the BIA to the factors establishing `extreme hardship.'" Hernandez-Cordero, 819 F.2d at 563.

It is well established that economic hardship and cultural reassimilation claims such as those raised here are insufficient in and of themselves to constitute "extreme hardship." See Hernandez-Cordero, 819 F.2d at 564; Vargas, 826 F.2d at 1397; Youssefinia v. INS, 784 F.2d at 1254, 1262 (5th Cir. 1986);

Zamora-Garcia v. INS, 737 F.2d 488, 491 (5th Cir. 1984). As we stated in Vargas, a factually similar case, in response to claims of economic and social hardships stemming from deportation, "we think that the various hardships raised . . . are similar to those that would be suffered by any alien family that is being deported . . . after living in the United States for more than seven years." Vargas, 826 F.2d at 1397. We therefore find no abuse of discretion in the Bia's determination that these aspects of the Vegas' claim do not in and of themselves constitute "extreme hardship."

We next must determine whether the BIA erred in denying that the added factor of Soraya's sickness raised the Vegas' case to a situtation of uniquely extreme hardship. According to the Code of Federal Regulations, applicants for suspension of deportation relief have the burden of establishing their eligibility for that relief. See 8 C.F.R. §§ 242.17(a) and (e). The BIA held that the Vegas had not met that burden in establishing that the medical facilities in Nicaragua are inadequate and that Soraya's chances of suffering severe medical complications would increase if she were to accompany them to Nicaragua. The Vegas provided only two statements in support of their assertion that Soraya would receive inadequate medical care. First, Mrs. Vega testified that she knew from newspapers and television news programs that many professionals were leaving Nicaragua. Second, a letter from Soraya's physician indicated his opinion that medical care in Nicaragua would be insufficient to meet Soraya's

needs. However, the record offered no evidence that the physician had any expertise in medical treatment outside of the United States. The BIA did not abuse its discretion when it determined that these two sources of evidence alone were insufficient to establish the inadequacy of the Nicaraguan medical facilities.

Finally, we address the Vegas' claim that the BIA erred procedurally by failing to consider the combined efect of caring for Soraya together with the economic and social difficulties that accompany deportation. This court has specifically held that, "absent some showing that the synergistic effect of the combination of hardship claims creates an independent factor requiring separate consideration, [a BIA] statement that it considered the cumulative effect of the hardship factors is procedurally sufficient." Vargas, 826 F.2d at 1398. In the case at hand, the Vegas assert that the economic and social hardships that they anticipate facing in Nicaragua would be exacerbated by having to care for Soraya. However, they provided no evidence of the cost of medical treatment in Nicaragua relative to wage levels or anticipated living expenses. Moreover, they offered no evidence that Soraya's care lessened the educational opportunities that would be available to them or their ability to establish new friendships. We therefore find that the record fails to support the existence of an independent and extreme hardship resulting from the conbination of Soraya's illness and the Vegas' other hardship claims. As a result, we conclude that

the BIA met procedural requirements by indicating that it had considered the combined effect of the claimed hardships:

> In sum, we find that the various claims of all the respondents concerning their respective assertions of economic, educational, social, and cultural hardship if they were returned to Nicaragua, do not rise to the level of extreme hardship contemplated under [8 U.S.C. § 1254], even in combination with any hardship they might derive due to the illness of their non-respondent family member.[2]

We accordingly reject the Vegas' procedural challenge.

III. Conclusion

For the foregoing reasons we AFFIRM the decision of the Board of Immigration Appeals.

[2] Emphasis has been added.