



U.S. Citizenship  
and Immigration  
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[Redacted]

FILE:

[Redacted]

Office: CHICAGO, IL

Date: JUN 20 2006

IN RE:

[Redacted]

APPLICATION:

Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the  
Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, Chicago, IL, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Ghana who was found to be inadmissible to the United States (U.S.) under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having procured admission into the United States by fraud or willful misrepresentation in August 1990. The applicant is married to a U.S. citizen and has two U.S. citizen children. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i) in order to reside in the United States with his spouse and children.

The district director concluded that the circumstances surrounding the applicant's application do not rise to the level of extreme hardship. The application was denied accordingly. *District Director's Decision*, March 18, 2004.

On appeal, counsel states that the district director erred in not considering the suffering of the applicant's daughter as hardship to the applicant's spouse. He further states that the financial and emotion hardship suffered by the applicant's spouse amounts to extreme hardship. Counsel also states that he is submitting a doctor's note from the applicant's daughter's doctor and two country reports for Ghana. *Counsel's Brief*, dated July 28, 2004.

The AAO notes that on March 12, 2006 the AAO sent a notice to counsel stating that beyond the initial submission of the Form I-290B the AAO did not have a record of any further evidence or brief being received in regards to the applicant's appeal. The AAO then requested that a copy of the additional evidence and/or brief be sent to the AAO by mail or fax within five business days. On April 14, 2006, counsel replied to this request by faxing in the brief originally submitted on July 28, 2004. In his appellate brief counsel states that a doctor's note and two country reports are attached to the brief. The AAO has no record of these three items ever being submitted. Therefore, they cannot be considered in the adjudication of this application.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

- (i) Any alien 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 this Act is inadmissible.

Section 212(i) of the Act provides that:

- (1) The Attorney General [now the Secretary of Homeland Security, "Secretary"] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

The record indicates that during the applicant's adjustment interview on November 5, 2003 the applicant admitted to entering the United States in August 1990 on a Ghanaian passport that did not belong to him. A section 212(i) of the Act provides that a waiver of the bar to admission resulting from section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member. Hardship the alien himself experiences due to separation is irrelevant to section 212(i) waiver proceedings unless it causes hardship to the applicant's spouse. Once extreme hardship is established, it is but one favorable factor to be considered in the determination of whether the Secretary should exercise discretion. *See Matter of Mendez*, 21 I&N Dec. 296 (BIA 1996).

The AAO notes that extreme hardship to the applicant's spouse must be established in the event that she resides in Ghana or in the event that she resides in the United States, as she is not required to reside outside of the United States based on the denial of the applicant's waiver request. The AAO will consider the relevant factors in adjudication of this case.

The first part of the analysis requires the applicant to establish extreme hardship to his spouse in the event that she resides in Ghana. Counsel states in his brief that the applicant's step-daughter has sickle cell anemia and would not be able to obtain medical care for her condition in Ghana. He also states that the country conditions in Ghana are so poor that his spouse would not be able to find employment. The AAO cannot take the assertions of counsel as fact. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Counsel must submit documentation to support his claims. In the current application he has not done so, therefore, the record does not reflect that relocation will result in extreme hardship to the applicant's spouse.

The second part of the analysis requires the applicant to establish extreme hardship in the event that his spouse remains in the United States. Counsel asserts that the applicant's spouse requires help in raising her two daughters and will not be able to support them without the applicant's income. Counsel also asserts that the applicant will not be able to contribute to his family financially from Ghana because he will not be able to find employment. The AAO recognizes that the applicant's spouse will endure hardship as a result of separation from the applicant. However, counsel has not submitted documentation to establish that the applicant's spouse will in fact suffer extreme hardship as a result of his removal from the United States.

U.S. court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. *See Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991). For example, *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), held that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship. In addition, *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), held that the common results of deportation are insufficient to prove extreme hardship and defined extreme hardship as hardship that was unusual or beyond that which would normally be expected upon deportation. *Hassan v. INS*, *supra*, held further that the uprooting of family and separation from friends does not necessarily amount to extreme hardship but rather represents the type of inconvenience and hardship experienced by the families of most aliens being deported.

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's spouse caused by the applicant's inadmissibility to the United States. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether he merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(9)(B) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.