



U.S. Citizenship
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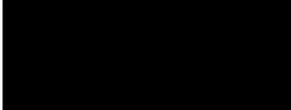
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FILE:



Office: FRANKFURT, GERMANY

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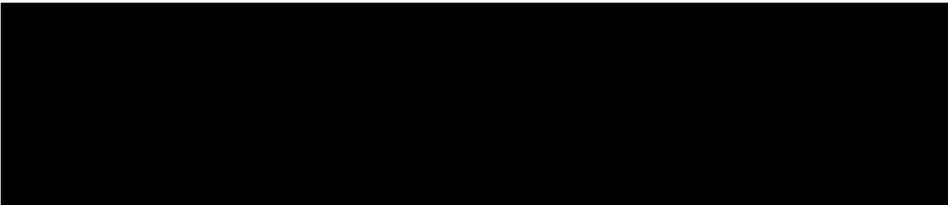
IN RE:

Applicant:



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

ON BEHALF OF APPLICANT:



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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Acting Officer in Charge, Frankfurt, Germany, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Sierra Leone who is married to a U.S. citizen and is the beneficiary of an approved petition for alien relative. On December 28, 1998 the applicant was found inadmissible pursuant to § 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i) when he attempted to gain admittance to the United States by using a British passport in another person's name. The applicant applied for a waiver of inadmissibility under § 212(i) of the Act, 8 U.S.C. § 1182(i) in order to reside in the U.S. with his wife. The acting officer in charge concluded that the record did not demonstrate that the applicant's wife would experience extreme hardship on account of the applicant's inadmissibility; thus, he denied the waiver application.

On appeal, counsel asserts that the applicant's wife's March 17, 2005 letter establishes that she will suffer extreme hardship if the applicant is not allowed to return to the United States. The AAO has reviewed the entire record and concurs with the acting officer in charge's decision.

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.

The applicant's use of a passport belonging to another individual constitutes a misrepresentation of material facts; hence, he is inadmissible.

Section 212(i) of the Act provides that:

- (1) The Attorney General may, in the discretion of the Attorney General, 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 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.

Section 212(i) of the Act provides that a waiver of the bar to admission resulting from § 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship to the citizen or lawfully resident spouse or parent. In cases where an applicant fails to establish extreme hardship to a qualifying relative, the applicant is statutorily ineligible for relief, and no purpose would be served in discussing whether the applicant merits a waiver as a matter of discretion.

In *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565-66 (BIA 1999) the Board of Immigration Appeals (BIA) provides a list of factors relevant in determining whether an alien has established extreme hardship pursuant to § 212(i) of the Act. These factors include: the presence of a lawful permanent resident or United States citizen spouse or parent in this country; the qualifying relative's family ties outside the United States; the conditions in the country or countries to which the qualifying relative would relocate and the extent of the qualifying relative's ties in such countries; the financial impact of departure from this country; and significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate.

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, in *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), the BIA held that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship. In *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), the Ninth Circuit Court of Appeals defined "extreme hardship" as hardship that was unusual or beyond that which would normally be expected upon deportation. The Ninth Circuit emphasized that the common results of deportation are insufficient to prove extreme hardship. Moreover, the U.S. Supreme Court held in *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship.

Counsel asserts that the concerns of the applicant's wife regarding her ability to finish nursing school in the applicant's absence constitute a hardship above and beyond that which normally occurs in similar situations. The record contains no documentation in support of the claim that the applicant's wife would be unable to continue her education on account of the applicant's inadmissibility. The AAO notes that two years have passed since the applicant's wife wrote the letter, and the record contains no current information regarding her financial or employment situation. The record also does not indicate that the applicant's wife would suffer extreme hardship should she relocate to her native Sierra Leone to live with the applicant. The AAO finds that the record does not establish that the applicant's wife would experience greater difficulties and challenges than other spouses of inadmissible individuals.

Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether the applicant merits a waiver as a matter of discretion. In proceedings for application for waiver of grounds of inadmissibility under § 212(i) of the Act, the burden of proving eligibility remains entirely with the applicant. 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.