



U.S. Citizenship  
and Immigration  
Services

*H2*

**PUBLIC COPY**

**Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

[Redacted]

FILE:

[Redacted]

Office: CLEVELAND, OHIO

Date: **APR 23 2008**

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.

*Robert P. Wiemann*

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office Director, Cleveland, Ohio, 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 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 on February 20, 1999. The applicant is married to a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The district director concluded that the record did not support a finding that the applicant's spouse would suffer extreme hardship as a result of the applicant's removal from the United States. The application was denied accordingly. *Decision of the Field Office Director*, dated August 20, 2007

On appeal, counsel asserts that the applicant's spouse would suffer extreme financial and physical hardship as a result of the applicant's inadmissibility to the United States. *Counsel's Brief*, dated October 18, 2007.

The record indicates that on February 20, 1999, the applicant presented a Ghanaian passport and nonimmigrant visa in the name of [REDACTED] to enter the United States. Therefore, she is inadmissible to the United States under section 212(a)(6)(C)(i) of the Act.

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.

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 the applicant's U.S. citizen or lawful permanent resident spouse and/or parent. Hardship the alien experiences due to separation is not considered in section 212(i) waiver proceedings unless it causes hardship to the applicant's spouse and/or parent.

The concept of extreme hardship to a qualifying relative "is not . . . fixed and inflexible," and whether extreme hardship has been established is determined based on an examination of the facts of each individual

case. *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565 (BIA 1999). In *Matter of Cervantes-Gonzalez*, the Board of Immigration Appeals set forth a list of non-exclusive factors relevant to determining whether an applicant has established extreme hardship to a qualifying relative pursuant to section 212(i) of the Act. These factors include, with respect to the qualifying relative, the presence of family ties to U.S. citizens or lawful permanent residents in the United States, family ties outside the United States, country conditions where the qualifying relative would relocate and family ties in that country, the financial impact of departure, and significant health conditions, particularly where there is diminished availability of medical care in the country to which the qualifying relative would relocate. *Id.* at 566.

Relevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists. In each case, the trier of fact must consider the entire range of factors concerning hardship in their totality and determine whether the combination of hardships takes the case beyond those hardships ordinarily associated with deportation.

*Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996) (citations omitted). 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 he relocates to Ghana and in the event that he resides in the United States without the applicant, as he is not required to relocate outside of the United States based on the denial of the applicant's waiver request. The AAO will consider the relevant factors in the adjudication of this case.

The first part of the analysis requires the applicant to establish extreme hardship to her spouse in the event that he relocates to Ghana. Counsel asserts that the applicant's spouse will suffer extreme financial and physical hardship as a result of relocating to Ghana to be with the applicant. *Counsel's Brief*, dated October 18, 2007. Counsel states that the applicant's spouse would default on his student loans if he relocated to Ghana because he would be unable to earn an income sufficient to meet his student loan payments. *Id.* In support of this assertion, counsel submits the following documentation: 1). The applicant's spouse's Bachelor of Arts degree in Business Administration; 2). the applicant's spouse's Master's degree in Accountancy; 3). Documentation showing the applicant's spouse's undergraduate student loan balance as \$49,622.75, federal loans disbursed to the applicant's spouse in the amount of \$25,800; a Perkins Loan in the amount of \$6,535.55 and multiple Sallie Mae loans totaling \$32,600. See *Counsel's Brief; Exhibits J, K, L, M, and N*. The record indicates that the applicant's spouse's entire student loan debt amounts to over \$100,000. In addition to this documentation, counsel submits evidence regarding the applicant's spouse's inability to earn a wage in Ghana that will be sufficient to pay back his student loans. Counsel submits documentation from the applicant's spouse's graduate degree program at Case Western University, which states that a graduate from their degree program can expect to earn \$38,000 to \$115,000 per year. The applicant's spouse submits a statement asserting that he expects to earn approximately \$45,000 per year. *Spouse's Affidavit*, dated September 25, 2007. In contrast, counsel submits a one-page report compiled by Charlie Bross Consultants, which states that in Ghana, the monthly salary for someone with the applicant's spouse's qualifications is \$500 to \$555. *Monthly Basic Salary Survey-2005/2006-Public Sector, Ghana Education Service, compiled by Charlie Bross Consultants*. To supplement this report, counsel submits Background Notes on Ghana from the

U.S. State Department, which show that the per capita gross domestic product in Ghana in 2005 was \$2,500. For comparison, counsel submits a report from the Bureau of Economic Affairs, which shows that the per capita gross domestic income in the U.S. in 2006 was \$37, 714. Based on this information, counsel concludes that if he relocates to Ghana the applicant's spouse can expect to earn a wage significantly lower than his wage in the United States, making it likely that he will default on his student loans causing him extreme financial hardship. *Counsel's Brief*, undated.

In addition to financial hardship, counsel states that the applicant's spouse would suffer physical hardship as a result of relocating to Ghana because he is continually receiving treatment for hypertension and hyperlipidemia. *Id.* Counsel submits a letter from the applicant's spouse's treating physician, which states that the applicant's spouse was diagnosed with hypertension and hyperlipidemia and that he is being treated for these conditions with Diovan/Hct and Lopid. *Letter from [REDACTED]* dated October 9, 2007. Counsel also submits a "Hypertension Health Center Guide" from WebMD, which states that the most important element of managing hypertension is follow-up care and that it is recommended that individuals with hypertension have periodic check-ups because hypertension increases with time, decreasing the effectiveness of treatment. *WebMD Guide*, printed October 10, 2007. Counsel states that if the applicant's spouse relocated to Ghana he would be unable to have periodic medical check-ups and/or receive his medication for his conditions. *Counsel's Brief*, dated October 18, 2007. In support of this assertion, counsel submits a World Health Organization Publication and a State Department Consular Information Sheet, which indicates the severely limited availability of doctors, nurses and pharmacists in Ghana. The State Department Consular Information Sheet states that medical facilities in Ghana are limited and travelers should carry a supply of their prescription medications with them. *Consular Information Sheet*, dated August 1, 2007. In addition to the hardship created by his medical conditions, counsel states that the applicant's spouse would be a target for criminal activity in Ghana because he is an American. *Id.* Counsel submits a notice from the U.S. Diplomatic Mission in Ghana, which states that there have been several incidents of muggings and robberies committed against American citizens in Accra, Ghana. The AAO notes that the record supports a finding that as a result of his student loan debt and inability to earn a sufficient wage as well as his medical conditions and the unavailability of medical care in Ghana, the applicant's spouse will endure financial and physical hardship that would amount to extreme upon his relocation.

However, the applicant has not established that her spouse would suffer extreme hardship in the event that he remains in the United States. The record establishes that the applicant and her spouse have been married for approximately three years. The applicant's spouse states that if the applicant were removed to Ghana it would be the worst thing that could happen to him and all of his dreams would be destroyed. *Spouse's Affidavit*, September 25, 2007. The AAO notes that the applicant's spouse must submit documentation detailing and supporting his hardship upon separation from the applicant. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Thus, the applicant has not established her spouse would suffer extreme hardship as a result of being separated from her.

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 she merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i) 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.