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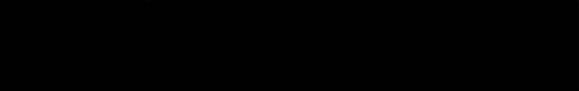
FILE:

Office: CLEVELAND, OH

Date:

DEC 09 2008

IN RE:



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:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District 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 Act, § 1182(a)(6)(C)(i), for having entered the United States by fraud or willful misrepresentation. The applicant entered the United States using a false passport in 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), in order to reside with his wife in the United States.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the District Director*, dated February 17, 2006.

On appeal, the applicant states that his wife, step-son, and mother-in-law depend on him for financial, emotional, and spiritual support. In addition, the applicant states that his mother-in-law suffers from diabetes and heart disease. The applicant contends that if they were to move to Ghana, his wife would not be able to find a job, his step-son would receive improper medical care and an unsatisfactory education, and his mother-in-law would not receive proper medical treatment.

The record contains, *inter alia*: a copy of the marriage license of the applicant and his wife, [REDACTED] indicating that they were married on April 23, 2002; letters from the applicant's step-son's school confirming enrollment; a letter confirming the applicant's offering to the Daystar Prayer Ministry; a letter from the applicant's employer stating he is a full-time employee earning \$13 per hour; financial and tax documents; copies of medical records for the applicant's mother-in-law; a letter to the applicant's mother-in-law requesting information regarding her disability benefits; a copy of an electric bill and a phone bill; affidavits from the applicant's mother-in-law and two other individuals attesting to the bona fide marriage between the applicant and [REDACTED] a copy of the applicant's passport; photos of the applicant with his family; a copy of the applicant's divorce papers showing his divorce effective April 12, 2002; a request to withdraw a previous Form I-485 application based on an I-130 petition filed by the applicant's ex-wife; and letters attesting to the bona fide marriage between the applicant and his ex-wife. The entire record was reviewed and considered in rendering this decision.

Section 212(a)(6)(C)(i) of the Act provides:

In general. — 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) provides:

(1) The Attorney General [now Secretary of Homeland Security] may, in the discretion of the Attorney General [now Secretary of Homeland Security], waive the application of clause (i) of subsection (a)(6)(C) in the case of an immigrant 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 [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully permanent resident spouse or parent of such an alien. . . .

The applicant admits that he entered the United States on February 6, 1999, using a passport that belonged to another individual named [REDACTED]. Therefore, the applicant is inadmissible under section 212(a)(6)(C)(i) for fraud or willfully misrepresenting a material fact in order to procure admission into the United States.

A section 212(i) waiver of the bar to admission resulting from violation of section 212(a)(6)(C)(i) 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 of the applicant. *See* Section 212(i)(1) of the Act, 8 U.S.C. § 1182(i)(1). The term “parent” does not include in-laws. *See* Section 101(b)(2) of the Act, 8 U.S.C. § 1101(b)(2). Hardship the applicant or his children experience upon deportation is not a permissible consideration under the statute. *See* Section 212(i)(1) of the Act, 8 U.S.C. § 1182(i)(1). 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).

Matter of Cervantes-Gonzalez, 22 I&N Dec. 560, 565-566 (BIA 1999), provides a list of factors the Bureau of Immigration Appeals deems relevant in determining whether an alien has established extreme hardship under 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.

The applicant contends that his wife, step-son, and mother-in-law would suffer extreme hardship if his waiver application is denied. As stated above, hardship on the applicant’s step-son and mother-in-law are not permissible considerations under the statute. *See* section 101(b)(2) of the Act, 8 U.S.C. § 1101(b)(2); section 212(i)(1) of the Act, 8 U.S.C. § 1182(i)(1). Therefore, only the hardship to the applicant’s wife, [REDACTED] will be evaluated.

It is not evident from the record that the applicant’s spouse would suffer extreme hardship as a result of the applicant’s waiver being denied.

The applicant contends [REDACTED] would suffer extreme hardship if his waiver application is denied because she is dependent upon him for financial support and would be unable to secure a job in Ghana. *Affidavit of [REDACTED]* dated October 29, 2005. The record shows that [REDACTED] is a forty-three year old woman who has worked as a housekeeper and a care giver. *See U.S. Individual Income Tax Return for 2004 (Form 1040)*, dated February 18, 2005; *Biographic Information (Form G-325A)*, dated May 6, 2002. Prior to their marriage, [REDACTED] earned an income of \$15,000 in 2001 in the home care business. *See Affidavit of Support*

Under Section 213A of the Act (Form I-864), dated May 6, 2002. The applicant earned \$16,000 in 2001, approximately the same amount [REDACTED] earned. See *U.S. Individual Income Tax Return for 2001 (Form 1040)*, undated. After the couple married in 2002, the couple's 2004 joint tax return shows a combined income of approximately \$20,000, and [REDACTED] employment was listed as "housekeeper." See *U.S. Individual Income Tax Return for 2004, supra*. It is unclear from the record how much [REDACTED] earned as a housekeeper and it is unclear why the couple's combined income decreased from 2001 to 2004. Although the applicant contends in his affidavit that he is the sole financial support for the family, it is unclear from the record when [REDACTED] became unemployed, and there is no statement or affidavit in the record from her suggesting she could not resume working.

Furthermore, although there is a copy of an electric bill and a phone bill in the record, there is no other information regarding the family's expenses, such as documentation of rent or mortgage. In addition, there is no evidence in the record addressing the economic or social conditions in Ghana, and no evidence [REDACTED] could not obtain employment in Ghana. Going on record without supporting documentary evidence is insufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (BIA 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). In any event, even assuming some economic hardship, as the U.S. Supreme Court held in *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship. See also *Matter of Shaughnessy*, 12 I&N Dec. 810 (BIA 1968) (holding that separation of family members and financial difficulties alone do not establish extreme hardship).

The applicant also contends his wife is dependent upon him for emotional support. The AAO recognizes that [REDACTED] will endure hardship as a result of separation from the applicant. However, their situation, if Ms. [REDACTED] remains in the United States, is typical to individuals separated as a result of deportation or exclusion and does not rise to the level of extreme hardship based on the record. The Board of Immigration Appeals and the Courts of Appeals have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. 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. See also *Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991) (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).

To the extent the record contains information addressing the applicant's mother-in-law's health problems, there is nothing in the record indicating how her health conditions impact upon the applicant or [REDACTED]. For instance, there is no letter in plain language from a physician describing the exact nature and severity of the applicant's mother-in-law's health conditions, what treatment entails, and any family assistance needed. Similarly, there is no statement from the applicant or [REDACTED] explaining how they care for or assist the applicant's mother-in-law, and no documentation showing how they financially assist her. Without more

information, the AAO is not in the position to reach conclusions regarding the severity of a medical condition or the treatment and assistance needed.

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)(6)(C) 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.