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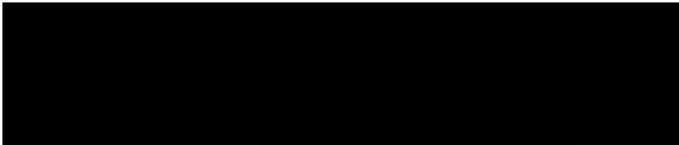
U.S. Department of Homeland Security  
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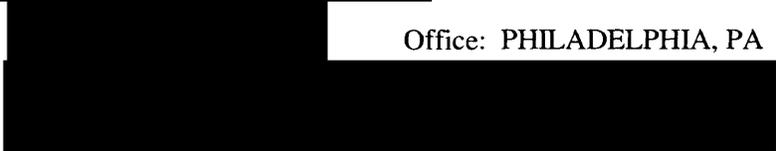


FILE:

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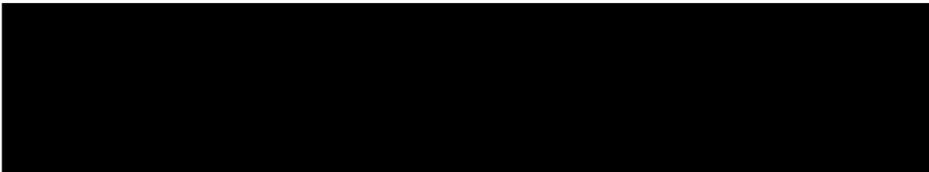
Date: FEB 25 2008

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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

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

The applicant is a native and citizen of Jamaica who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for procuring admission into the United States by fraud or willful misrepresentation. The applicant is the spouse of a U.S. Citizen and the son of a lawful permanent resident. He 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.

The acting 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 Inadmissibility. *Decision of the Acting District Director*, dated August 1, 2006.

On appeal, the applicant asserts that both of the applicant's qualifying relatives would suffer extreme hardship if the applicant were removed from the United States despite the fact that neither of them resides with the applicant. *Brief in Support of Appeal*, at 5, dated August 25, 2006.

The record includes, but is not limited to, counsel's brief, the applicant's statement, the applicant's sister's statement, the applicant's companion's statement, evidence of child support payment by the applicant and photographs of the applicant's family. The entire record was reviewed and considered in arriving at a decision on the appeal.

The record reflects that the applicant was admitted into the United States with a fraudulent passport in February 1993. As a result of this prior misrepresentation, the applicant is inadmissible to the United States under section 212(a)(6)(C) 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.

The applicant requires a waiver under section 212(i) of the Act. This waiver is dependent first upon a showing that the bar imposes an extreme hardship to the applicant's U.S. citizen spouse or lawful permanent

resident mother. The applicant's companion and his children are not qualifying relatives. Therefore, hardship to them is only relevant to the extent that it causes hardship to a qualifying relative. If extreme hardship is established to a qualifying relative, the Secretary then assesses whether an exercise of discretion is warranted.

*Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560 (BIA 1999) provides a list of factors the Board of Immigration Appeals deems relevant in determining whether an alien has established extreme hardship. These factors include the presence of lawful permanent resident or United States citizen family ties to 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.

Extreme hardship to a qualifying relative must be established in the event that the qualifying relative resides in Jamaica or in the event that the qualifying relative resides in the United States, as the qualifying relative is not required to reside outside of the United States based on the denial of the applicant's waiver request.

The first part of the analysis requires the applicant to establish extreme hardship to a qualifying relative in the event of relocation to Jamaica. Counsel states that the applicant's spouse has no ties to Jamaica. *Brief in Support of Appeal*, at 2. There is no other evidence of hardship presented for the applicant's spouse. The AAO notes that adapting to a new culture is a normal requirement when joining a spouse who has been removed from the United States, as is adapting to a new financial situation. The record does not reflect hardship beyond that which would normally be expected.

Counsel states that the applicant's mother has no family in Jamaica, she cannot live on her own, the applicant cannot care for her as she requires around-the-clock care and she requires full-time assistance due to her medical condition. *Id.* at 3-4. The applicant states that his mother has diabetes, high blood pressure, a frail hip, a cataract, cannot walk steps, cannot drive, cannot complete paperwork and is never alone. *Applicant's Statement*, at 1, date June 30, 2006. However, the record does not include evidence that establishes the medical condition affecting the applicant's mother. Although the record contains a list of outpatient treatment dates for the applicant's mother at Kings County Hospital Center, the list does not identify the treatment provided. *Response to Request for Medical Record Information*, dated July 3, 2006. The record also fails to provide evidence that would demonstrate that the applicant cannot care for his mother in Jamaica or find assistance for her, and that she cannot receive medical care in Jamaica. Going on record without supporting documentation will not meet the applicant's burden of proof in this proceeding. *See 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)). No other evidence of hardship has been presented for the applicant's mother. The AAO finds that the applicant has not established that a qualifying relative would experience extreme hardship upon relocation to Jamaica.

The second part of the analysis requires the applicant to establish extreme hardship in the event that a qualifying relative remains in the United States. Counsel states that the applicant is separated from his spouse, his spouse does not work, the applicant is the sole means of support for their ten-year old daughter who lives with his spouse, and his spouse will have no means to support their daughter if he is removed from

the United States. *Brief in Support of Appeal*, at 2. Counsel contends that having no money to support her child will cause the applicant's spouse extreme hardship. *Id.* at 4. The record includes no evidence that the applicant's spouse is unable to financially support herself and her daughter without the applicant. In addition, there is no evidence that the applicant's spouse would experience other forms of hardship if his waiver application were to be denied.

Counsel states that the applicant's mother is 80 years old, she has no income or retirement savings, she is in poor health and she needs constant care and medical treatment. *Id.* at 3. Counsel asserts that without the applicant's financial support, his sisters would not be able to fully support their mother due to the high level of financial and physical dependence required by their mother. *Id.* The applicant states that he visits his mother, every other week to relieve his sisters, he takes care of her and she would not be able to afford medication and doctors appointments without his financial support. *Applicant's Statement*, at 2. The applicant states that he has three other sisters and a brother living in the United States. *Id.* at 1. As previously noted, the record does not provide the evidence necessary to establish that the applicant's mother requires constant care and treatment for chronic health problems. Neither does it demonstrate that the applicant provides his mother financial support. Further, there is no evidence that the applicant's other siblings cannot provide equivalent assistance.

Based on a review of the record, the AAO finds that extreme hardship has not been established to a qualifying relative in the event of remaining in the United States without the applicant.

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 a qualifying relative 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.