



U.S. Citizenship
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[REDACTED]

FILE:

Office: BALTIMORE, MD
RELATES)

Date:

FEB 29 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, Chief
Administrative Appeals Office

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

The applicant is a native and citizen of Cameroon who was found to be inadmissible to the United States under sections 212(a)(6)(A), 212(a)(6)(C)(i) and 212(a)(9)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(A), § 1182(a)(6)(C)(i), § 1182(a)(9)(A), for having entered the United States without being admitted or paroled, for having procured admission into the United States by fraud or willful misrepresentation and for being an alien previously removed who entered the United States without permission to reapply for admission. The applicant is married to a U.S. citizen and has one U.S. citizen child. She seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The district director found the applicant to be inadmissible to the United States under sections 212(a)(6)(A), 212(a)(6)(C)(i) and 212(a)(9)(A) of the Act. *Decision of the Interim District Director*, dated January 22, 2004. He then concluded that an Application for Waiver of Ground of Inadmissibility (Form I-601) could not be filed to waive the applicant's inadmissibility under sections 212(a)(6)(A) and 212(a)(9)(A) of the Act. The application was denied accordingly. *Id.*

On appeal, counsel states that the applicant is not inadmissible under section 212(a)(6)(A) of the Act because she was admitted to the United States by using a passport that did not belong to her. *Form I-290B*, dated February 19, 2004. Counsel asserts that the applicant's removal from the United States would cause extreme hardship to her U.S. citizen spouse. Counsel submits an Application for Permission to Reapply for Admission (Form I-212) with her appeal. *Id.*

The record indicates that on January 15, 2000 the applicant presented a valid nonimmigrant visa to enter the United States. During an interview with immigration inspectors, the applicant stated that she had falsely claimed on her visa application that she was traveling to the United States for her brother's wedding. She stated further that the real reason for her visit to the United States was to see her fiancé. *Form I-275*, dated January 15, 2000. On January 21, 2000, the applicant was found inadmissible to the United States under sections 212(a)(6)(C)(i) and 212(a)(7)(A)(i)(I) of the Act as an immigrant who procured admission into the United States by fraud or willful misrepresentation and who at the time of application for admission, was not in possession of a valid entry document. *Form I-860*, dated January 21, 2000. She was removed to France on January 28, 2000. *Form I-296*, dated January 21, 2000. In addition, I-94 entry records and the applicant's own testimony during her adjustment interview establishes that on March 22, 2002 the applicant entered the United States without applying for permission to reapply for admission following removal and using a French passport issued to an [REDACTED] with a birth date of January 7, 1981.

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

- (i) An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, [now the Secretary of Homeland Security, "Secretary"] is inadmissible.

The AAO finds that the applicant is not inadmissible to the United States under section 212(a)(6)(A) of the Act because both in 2000 and 2002 she presented herself for admission and inspection at a U.S. port of entry.

The AAO notes that the applicant's removal from the United States in 2002 also renders her inadmissible under section 212(a)(9)(A) of the Act. On appeal, counsel submits a Form I-212, Application for Permission to Reapply for Admission Into the United States After Deportation or Removal. However, the AAO cannot consider the Form I-212 as the application is not before it on appeal. Pursuant to 8 C.F.R. § 212.2(e), an applicant for adjustment of status under section 245 of the Act must request permission to reapply for admission in conjunction with his or her application for adjustment with the district director having jurisdiction over the place where he or she resides.

The AAO now turns to the applicant's inadmissibility under section 212(a)(6)(C) of the Act for attempting to procure admission to the United States in 2000 and procuring admission to the United States in 2002 by fraud.

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.

A waiver of a section 212(a)(6)(C)(i) inadmissibility is available under section 212(i) of the Act, which provides that:

- (1) The Attorney General 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.

Under section 212(i) of the Act 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 or her child experiences 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 resides in Cameroon or in the event that he resides in the United States, as he 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 her spouse in the event that he resides in Cameroon. Counsel states that the applicant's spouse cannot relocate to Cameroon because he was granted asylum from Cameroon and is afraid to return. *Attachment to Form I-290B*. The applicant's spouse states that he received political asylum on February 22, 1996. *Spouse's Statement*, dated February 11, 2003. He states that he was arrested three times in Cameroon for his involvement with the Social Democratic Front. He explains that the same regime that persecuted him is in power today, so he still fears returning. *Id.* Citizenship and Immigration Services (CIS) records show that the applicant's spouse was granted asylum from Cameroon. Thus, the AAO finds that the applicant has established that her spouse would suffer extreme hardship as a result of relocating to Cameroon.

The second part of the analysis requires the applicant to establish extreme hardship in the event that her spouse remains in the United States. The applicant's spouse expresses his distress over a separation from the applicant that would be indefinite and, therefore, too much of a hardship for him to endure. *Spouse's Statement*, dated February 11, 1003. In a psychological evaluation prepared by [REDACTED] a licensed psychologist, the applicant reports that at the age of 14 or 15 years old, she moved to Paris, France where she lived with her half sister and half brother until she came to the United States. *Psychological Evaluation*, dated October 27, 2003. The applicant reported that only her parents still reside in Cameroon and that they are trying to leave because of the political dangers they are facing. *Id.* She stated that her father defected from the current government to an opposition political party and as a result the current regime destroyed her father's business. She reported that her half sister was arrested when she visited Cameroon because of her opposition to the government's actions. *Id.* [REDACTED] states that the applicant's spouse expresses grave concern for the applicant's safety if she were returned to Cameroon. The applicant's spouse reported to [REDACTED] that before his escape to the United States his family members were harassed and tortured by government police in an effort to find where he was hiding. *Id.* The applicant's spouse stated to [REDACTED] that if she were forced to live in Cameroon without her spouse and child she might commit suicide. The AAO notes that [REDACTED] states that a mental status examination was conducted with both the applicant and her spouse with no indication of mental illness or reports of mood disturbances, insomnia or loss of appetite. The applicant's spouse also expressed concern for his child not being raised with both parents and that he has no family members in the United States to help care for his daughter. [REDACTED] finds that given the applicant's spouse's firsthand experience with political persecution and the reported problems of the applicant's family, the applicant's

spouse's fears about his wife's safety in Cameroon appear to be plausible and reasonable. She concludes that to have the applicant subjected to likely dangers would be extremely emotionally distressing for the applicant's spouse. *Id.*

The AAO notes the applicant's spouse's statements regarding his fear for the applicant's safety upon return to Cameroon because of her family's political affiliations as well as his history of political persecution in the country. However, the applicant did not submit any type of documentation to support her claims concerning the risks she and her family face in Cameroon. 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)). The record in this case does not include country conditions information on Cameroon, statements from other family members and/or any documents or accounts regarding the applicant's father's political affiliations, her half sister's or father's arrests and/or the ability of the current government in Cameroon to identify the applicant as the spouse of a former political opponent. Therefore, the current record does not establish that the applicant's spouse would suffer extreme emotional hardship were his spouse to be returned to Cameroon while he remained in 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 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.