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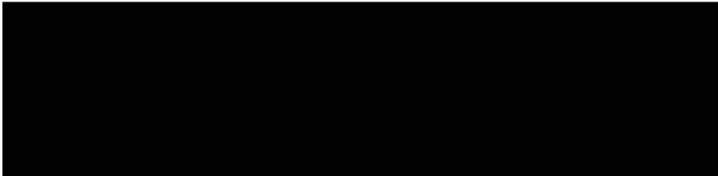
FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER

Date: **JAN 14 2008**

IN RE: Applicant: [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:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant, [REDACTED], is a native and citizen of Ghana 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 seeking admission into the United States by fraud or willful misrepresentation. The applicant sought a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), which the director denied, finding the applicant failed to establish extreme hardship to a qualifying relative. *Decision of the Director*, dated February 27, 2006. The applicant submitted a timely appeal.

The AAO will first address the finding of inadmissibility pursuant to 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.

The record reflects that the applicant sought to enter the United States on October 9, 1999 by presenting to immigration inspectors a fraudulent Form I-551, resident alien card, and passport. It also indicates that in a sworn statement the applicant admitted to using a passport of another person to enter the United States. *Record of Sworn Statement in Affidavit Form*, dated August 26, 2005. The AAO finds that the documentation in the record supports the finding that the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act for seeking to gain admission into the United States by fraud or willfully misrepresenting a material fact to immigration officials.

The AAO will now address the finding that the grant of a waiver of inadmissibility is not warranted.

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.

A section 212(i) waiver of the bar to admission resulting from violation of section 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 of the applicant. Hardship to the applicant and his children are not a consideration under the statute, and unlike section 212(h) of the Act where a child is included as a qualifying relative, they are not included under section 212(i) of the Act. Thus, hardship to the applicant and his children will be considered

only to the extent that it results in hardship to a qualifying relative, who in this case is [REDACTED] the applicant's naturalized citizen wife. 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 record contains letters and an affidavit from [REDACTED], photographs, wage statements, income tax records, a marriage certificate, birth certificates, a naturalization certificate, an employment letter, and other documents. The AAO has carefully considered all of the documentation in the record in rendering this decision.

"Extreme hardship" is not a definable term of "fixed and inflexible meaning"; establishing extreme hardship is "dependent upon the facts and circumstances of each case." *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565 (BIA 1999). The Board of Immigration Appeals (BIA) in *Matter of Cervantes-Gonzalez* lists the factors it considers relevant in determining whether an applicant has established extreme hardship pursuant to section 212(i) of the Act. The 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. *Id.* at 565-566. The BIA indicated that these factors relate to the applicant's "qualifying relative." *Id.* at 565-566.

In *Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996), the BIA stated that the factors to consider in determining whether extreme hardship exists "provide a framework for analysis," and that the "[r]elevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists." It further stated that "the trier of fact must consider the entire range of factors concerning hardship in their totality" and then "determine whether the combination of hardships takes the case beyond those hardships ordinarily associated with deportation." (citing *Matter of Ige*, 20 I&N Dec. 880, 882 (BIA 1994).

Extreme hardship to the applicant's wife must be established in the event that she joins the applicant; and in the alternative, that she remains in the United States. A qualifying relative is not required to reside outside of the United States based on the denial of the applicant's waiver request.

In the undated letter from the applicant's wife she indicates that she depends on her husband financially and emotionally and would be devastated if he were to leave the country. She states that he pays rent, buys groceries, and pays for school expenses and that he helps raise their children.

The August 16, 2005 employment letter from Kings Harbor Multicare Center conveys that [REDACTED] works part-time (7.25 hours per week) as a certified nursing assistant. The wage statement covering pay period April 10, 2005 to April 16, 2005 indicates that [REDACTED] earned net pay of \$478.59.

[REDACTED]'s most recent wage statement reflects net pay of \$604.27 for the pay period ending April 24, 2005; it shows he earns \$9 per hour.

The W-2 Form for 2004 shows [REDACTED] earning \$6,994.50, and the applicant's W-2 Forms show earnings totaling \$26,980.

In the affidavit, [REDACTED] states that she earns \$300 each week, their apartment rent is \$806 each month, and that without her husband's income she would not be able to pay rent and credit card debt. The affidavit indicates that [REDACTED] and her husband jointly raise their two U.S. citizen children.

The applicant's wife claims that she would experience financial hardship if she remained in the United States without her husband. The documentation in the record reflects that she earned \$6,994.50 in 2004 and in that same year, the applicant earned \$26,980. **It shows that their children are 8 and 6 years old.** The documentation in the record, the AAO finds, is sufficient to establish that the income of the applicant's wife is not enough to meet monthly household expenses for a family of three. Thus, the applicant has demonstrated that his wife would experience extreme financial hardship if she were to remain in the United States without him.

The applicant, however, has failed to establish that his wife would endure extreme hardship if she joined him in Ghana.

On appeal, counsel states that Ghana "lacks many of the modicums and veneer of civilization" and that the applicant would not be able to obtain meaningful and worthwhile employment. He states that the applicant is a taxi driver in the United States and would not be paid as well in Ghana as a taxi driver. Counsel states that the applicant is 36 years old, has lived in the United States for six years, and has participated in the economic and cultural life of the United States. He states that the applicant has significant family ties to the United States. Counsel states that corruption is rampant in Ghana and obtaining a higher education for the average individual is severely limited. He states that living in Ghana would be hostile to the future growth of the applicant and his contacts there are limited. Counsel states that the totality of the facts, which are the applicant's education, the requirements of his family, and the hardship of returning to Ghana support granting a waiver.

The conditions in Ghana, the country where the applicant's wife would live if she joins her husband, are a relevant hardship consideration. While political and economic conditions in an alien's homeland are relevant, they do not justify a grant of relief unless other factors such as advanced age or severe illness combine with economic detriment to make deportation extremely hard on the alien or his qualifying relatives. *Matter of Ige*, 20 I&N Dec. 880 (BIA 1994)(citations omitted).

With regard to the employment in another country, U.S. court decisions have held that the difficulty an applicant may experience in securing employment, and the hardships that flow from this are insufficient to establish extreme hardship. *See, e.g., Ramirez-Durazo v. INS*, 794 F.2d 491, 498 (9th Cir. 1986) (Even a significant reduction in the standard of living is not by itself a ground for relief); *Matter of Pilch*, 21 I&N Dec. 627, 631 (BIA 1996) (loss of current employment, inability to maintain one's present standard of living or to pursue a chosen profession, separation from a family member, or cultural readjustment do not constitute extreme hardship); and *Pelaez v. INS*, 513 F.2d 303 (5th Cir. 1975) (difficulty in obtaining employment and a lower standard of living in the Philippines is not extreme hardship).

The AAO notes that the record reflects that the applicant previously worked in Ghana in his family's business, helping his father who is a cement distributor.

In considering the hardship factors raised here, the AAO examines each of the factors, both individually and cumulatively, to determine whether extreme hardship has been established. It considers whether the cumulative effect of claims of economic and emotional hardship would be extreme, even if, when considered separately, none of them would be. It considers the entire range of factors concerning hardship in their totality and then determines whether the combination of hardships takes the case beyond those hardships ordinarily associated with removal.

The applicant has established extreme hardship to his wife in the event that she remained in the United States without him. However, he has not established extreme hardship to her if she were to join him in Ghana. Thus, in the final analysis, the AAO finds that the requirement of significant hardships over and above the normal economic and social disruptions involved in removal has not been met so as to warrant a finding of extreme hardship under section 212(i) of the Act. Having carefully considered each of the hardship factors raised, both individually and in the aggregate, it is concluded that these factors do not in this case constitute extreme hardship to a qualifying family member for purposes of relief under section 212(i) of the Act, 8 U.S.C. § 1182(i).

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 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. The applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.