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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

tlz

**PUBLIC COPY**

[REDACTED]

FILE:

Office: BALTIMORE, MD

Date: **JUN 25 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 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 Ghana who was found to be inadmissible to the United States under section 212(a)(6)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C), for having attempted to procure entry into the United States by fraud or willful misrepresentation. The applicant is married to a naturalized U.S. citizen. 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 with his spouse.

The District Director concluded that the applicant had failed to establish that extreme hardship would be imposed upon a qualifying relative and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the District Director*, dated September 10, 2004.

On appeal, counsel contends that Citizenship and Immigration Services (CIS) erred as a matter of law in finding that the applicant failed to establish extreme hardship to his qualifying relative, as necessary for a waiver under 212(i) of the Act. Counsel also asserts that the District Director minimized the serious medical condition of the applicant's spouse. *Form I-290B*.

In support of these assertions, counsel submits a statement. The record also includes, but is not limited to, statements and an email from the applicant's spouse; an Income and Expenses Statement Account for 2003; employment letters for the applicant and his spouse; tax statements for the applicant and his spouse; medical records for the applicant's spouse; a life insurance policy for the applicant's spouse; bank statements for the applicant and his spouse; letters of support from friends; and telephone bills. The entire record was reviewed and considered in rendering this decision.

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 record reflects that the applicant admitted to fraudulently obtaining a Liberian passport that he used to apply for Temporary Protected Status. *Statement from the applicant*, undated; *Form I-485, Application to Register Permanent Resident or Adjust Status*; *Form I-601, Application for Waiver of Ground of*

*Excludability.* The record also includes a Form I-589, Request for Asylum in the United States and a Form G-325A, Biographic Information sheet, filed by the applicant that state he is Liberian. *See Forms I-589 and G-325A.* The applicant is therefore inadmissible under Section 212(a)(6)(C)(i) of the Act for having attempted to procure admission to the United States through fraud or willful misrepresentation.

A section 212(i) waiver of inadmissibility resulting from a violation of section 212(a)(6)(C) of the Act is dependent first upon a showing that inadmissibility imposes extreme hardship to the citizen or lawfully permanent resident spouse or parent of the applicant. The plain language of the statute indicates that hardship that the applicant would experience upon his removal is not directly relevant to the determination as to whether the applicant is eligible for a waiver under section 212(i). The only hardship relevant to eligibility in the present case is the hardship that would be suffered by the applicant's naturalized U.S. citizen spouse if the applicant is removed. If 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 Board of Immigration Appeals deems relevant in determining whether an alien has established extreme hardship pursuant to section 212(i) of the Act. These factors include the presence of a 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.

The AAO notes that extreme hardship to the applicant's qualifying relative must be established in the event that she resides in Ghana or the United States, as she 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.

If the applicant's spouse travels with the applicant to Ghana, the applicant needs to establish that his spouse will suffer extreme hardship. **The applicant's spouse was born in Ghana.** *Form G-325A, Biographic Information sheet, for the applicant's spouse.* Both of her parents reside in Ghana. *Id.* In January 2002, the applicant's spouse injured her back at her place of employment. *Statement from the applicant's spouse*, undated; *Medical records*, [REDACTED]. The AAO notes that the physician treating the applicant's spouse does not recommend surgery and states that she is managing her lower back pain through medication. *Medical records*, [REDACTED]. C. From the time of her initial injury, the applicant's spouse has progressively increased her work hours and is able to tolerate an eight hour work day. *Id.* The applicant's spouse also states she is asthmatic. *Email from the applicant's spouse to counsel*, dated May 30, 2006; *Medical records*, [REDACTED]. While the record documents the health conditions of the applicant's spouse, the AAO notes that there is no documentation in the record to indicate that she could not receive adequate medical treatment in Ghana. The applicant's spouse states that she has adopted a child in Ghana. *Statement from the applicant's spouse*, dated November 16, 2004. In 2004, the applicant's spouse spent five months in Ghana visiting her child who is living with her mother. *Statement from the applicant's spouse*, dated November 16, 2004; *Email from the applicant's spouse to counsel*, dated

May 30, 2006. When looking at the aforementioned factors, the AAO does not find the record to establish that the applicant's spouse would suffer extreme hardship if she were to reside in Ghana. Moreover, the AAO notes that the applicant and his spouse do not claim that relocation to Ghana would constitute an extreme hardship for her.

If the applicant's spouse resides in the United States, the applicant needs to establish that his spouse will suffer extreme hardship. The applicant's spouse asserts that her aging parents and some of her family members depend upon her and the applicant for support in the forms of medical prescriptions and finance. *Email from the applicant's spouse to counsel*, dated May 30, 2006. The AAO notes that the record does not include any supporting documentation to affirm these assertions. The record includes an Income and Expenses Statement Account for 2003 showing that the total expenses for the applicant and his spouse surpass their income. *Income and Expenses Statement Account for 2003*. The AAO notes that while the record documents the salaries of the applicant and his spouse along with the expenses associated with having a telephone and life insurance plans, the record fails to document through the forms of bills and receipts many of the other claimed expenses. *See letters of employment for the applicant and his spouse; telephone bills; life insurance plans*. Going on record without supporting documentary evidence will not meet the burden of proof of 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)). Furthermore, there is nothing in the record to demonstrate that the applicant would be unable to contribute to his family's financial well-being from a place other than the United States.

The applicant's spouse notes that she would suffer emotionally and psychologically if the applicant were to be removed from the United States. *Email from the applicant's spouse to counsel*, dated May 30, 2006. She states that she has a stressful job as a nurse and that the applicant comforts her when she is depressed. *Id.* She states that she and the applicant depend on each other for strength, comfort, love, and assurance, and that any separation would destroy them. *Statement from the applicant's spouse*, dated December 13, 2002.

The applicant's spouse also contends that she has experienced many asthmatic attacks in the middle of the night and that without the applicant she might not be alive. *Email from the applicant's spouse to counsel*, dated May 30, 2006. She further asserts that the applicant cares for her when her back pain requires bed rest and that it may become necessary for her to have back surgery, after which she will also be dependent on the applicant's emotional and financial support. *Id.*; *Statement from the applicant's spouse*, undated. As previously discussed, the medical documentation in the record establishes that the applicant's spouse has asthma and that she has suffered a back injury. However, this documentation fails to demonstrate the severity of her asthma, that she requires medication for her condition or that it affects her ability to function on a daily basis. The record also fails to indicate that the applicant's spouse is facing back surgery. Instead, it provides evidence that her physician is not recommending surgery and that she is managing her back pain through medication. *Medical Records*, [REDACTED]

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. The AAO recognizes that the applicant's spouse will endure hardship as a result of separation from the applicant. However, the record does not distinguish her situation, if she remains in the United States, from that of other individuals separated as a result of deportation or exclusion. Accordingly, it does not establish that the hardship experienced by the applicant's spouse would rise to the level of extreme hardship. When looking at the aforementioned factors, the AAO does not find that the applicant has demonstrated extreme hardship to his spouse if she were to reside in 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.