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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: PHILADELPHIA, PA

Date: SEP 02 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 PETITIONER:



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 District Director, Philadelphia, Pennsylvania, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Cote d'Ivoire. He was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having procured admission into the United States by fraud or misrepresentation. The applicant is married to a U.S. citizen and is the beneficiary of an approved Petition for Alien Relative. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with his spouse.

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 Inadmissibility (Form I-601) accordingly. *See Decision of the District Director*, dated January 21, 2004.

On appeal, counsel asserts that denial of the waiver would result in extreme hardship to the applicant's U.S. Citizen wife and her children. Counsel requested 30 days in order to submit a brief and/or additional evidence in support of the appeal.<sup>1</sup> As of this date, over four years later, no additional statement or evidence has been submitted. In support of the waiver application, counsel submitted letters from the applicant's employer and his wife's employer, affidavits from the applicant's wife and some of her friends and relatives, and copies of the applicant's pay stubs. The entire record was reviewed and considered in arriving at a decision on the appeal.

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

- (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:

- (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

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<sup>1</sup> A fax received by the AAO on August 14, 2008 indicates that the attorney of record no longer represents the applicant. The applicant is, therefore, considered self-represented. All submitted documentation will, however, be considered.

spouse or parent of the applicant. Hardship the alien himself experiences upon deportation is irrelevant to section 212(i) waiver proceedings; the only relevant hardship in the present case is hardship suffered by the applicant's 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).

In *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560 (BIA 1999), the Board of Immigration Appeals (BIA) provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship. These factors included 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.

U.S. court decisions have additionally held that the common results of deportation or exclusion are insufficient to prove extreme hardship. See *Hassan v. INS*, 927 F.2d 465, 468 (9<sup>th</sup> Cir. 1991). For example, in *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), the BIA 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, in *Perez v. INS*, 96 F.3d 390 (9<sup>th</sup> Cir. 1996), the court 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. In *Hassan v. INS*, *supra*, the court further held 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. Moreover, the U.S. Supreme Court additionally held in *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship.

The record reflects that the applicant is a thirty-five year-old native and citizen of Cote d'Ivoire who entered the United States with a fraudulent French passport in March 1998 and has remained in the United States since that date. The record further reflects that the applicant's wife is a thirty-nine year-old native and citizen of the United States. They currently reside together in Wilmington, Delaware with the applicant's step-daughter. The applicant's wife has three other children, all of whom are U.S. Citizens.

The applicant's wife states that if the applicant is forced to return to Cote d'Ivoire, she would go with him, and would have to leave her four children behind in the United States as well as her brother, sister, and mother. See affidavit of [REDACTED] dated May 21, 2002. She states that she has a well-paying job and would suffer extreme hardship if she relocated to Cote d'Ivoire and had to leave her job and family, and further states that she has no relatives outside the United States and does not speak French, the language spoken in Cote d'Ivoire. Letters from the applicant's wife's mother, sister, daughter, and friends also state that the applicant and his wife depend on each other financially and emotionally, the applicant's wife loves him very much, and their family members would suffer hardship if the applicant's wife relocated to Cote

d'Ivoire. See letters from [REDACTED], and [REDACTED]. A letter from the applicant's friend further states,

[REDACTED] and [REDACTED] have been together for 4 years. They are very happy together. . . . Toi would suffer emotional as well as financial hardship. [REDACTED] loves her husband with all her heart and financially she can't keep their home (to name one thing) without [REDACTED]. I would suffer if [REDACTED] had to move to be with her husband. *Affidavit of* [REDACTED] dated April 15, 2002.

The applicant's wife states that if she relocated to Cote d'Ivoire she would suffer extreme hardship because she would be separated from her family in the United States, has no relatives in Cote d'Ivoire, and does not speak French. She did not submit any information on conditions in Cote d'Ivoire. She also submitted no information about her three children who do not reside with her, such as their ages, where they live, and whether they attend school. The AAO further notes that only one of the applicant's wife's daughters is listed on the applicant's application for adjustment of status, and she is now twenty-two years old. There is no other information on the record relating to the financial or emotional impact that relocating to Cote d'Ivoire would have on the applicant's wife. There is insufficient evidence on the record to establish that relocating to Cote d'Ivoire would result in hardship to the applicant's wife beyond that which would normally be expected as a result of deportation. See *INS v. Jong Ha Wang*, 450 U.S. 139 (1981) (stating that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship); *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996) (holding that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship).

Affidavits from relatives and friends of the applicant's wife state that the applicant and his wife love each other very much and the applicant's wife would suffer emotional hardship if the applicant were removed from the United States. There is no evidence on the record, however, to establish that the emotional effects of being separated from the applicant are more serious than the type of hardship a family member would normally suffer when faced with her spouse's deportation or exclusion. Although the depth of her distress over the prospect of being separated from her spouse is not in question, a waiver of inadmissibility is only available where the resulting hardship would be unusual or beyond that which would normally be expected upon deportation or exclusion. The prospect of separation or involuntary relocation nearly always results in considerable hardship to individuals and families. But in specifically limiting the availability of a waiver of inadmissibility to cases of "extreme hardship," Congress did not intend that a waiver be granted in every case where a qualifying relationship, and thus the familial and emotional bonds, exists. The emotional hardship the applicant's wife would experience if she remains in the United States without the applicant appears to be the type of hardship normally to be expected when a family member is excluded or deported. See *Matter of Pilch*, *supra*.

Affidavits from friends and relatives also state that the applicant's wife would suffer financially if the applicant were removed from the United States. The applicant's wife states, however, that she has a well-paying job, and there is no evidence on the record to document her expenses and support the assertion that she would not be able to pay her living expenses without the applicant's income. There is no indication that there are any unusual circumstances that would cause financial hardship beyond what would normally be

expected as a result of the applicant's removal. Living without the applicant's financial support therefore appears to be a common result of exclusion or deportation, and would not rise to the level of extreme hardship for the applicant's wife. *See INS v. Jong Ha Wang, supra.*

The emotional and financial difficulties that the applicant's wife would suffer appear to be the type of hardships that family members would normally suffer as a result of deportation or exclusion. U.S. court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. *See Perez v. INS*, 96 F.3d 390 (9<sup>th</sup> Cir. 1996) (defining "extreme hardship" as hardship that was unusual or beyond that which would normally be expected upon deportation); *Hassan v. INS*, 927 F.2d 465, 468 (9<sup>th</sup> Cir. 1991); *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996) (holding that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship).

In this case, the record does not contain sufficient evidence to show that the hardships faced by the qualifying relative, considered in the aggregate, rise beyond the common results of removal or inadmissibility to the level of extreme hardship. The AAO therefore finds that the applicant has failed to establish extreme hardship to his U.S. citizen spouse as required under section 212(i) of the Act.

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. 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.