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

U.S. Citizenship and Immigration Services

FILE: Office: BALTIMORE, MD Date:

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, Director
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)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having procured entry into the United States by fraud or willful misrepresentation. The applicant is married to a naturalized U.S. citizen and 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 her U.S. citizen 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 Excludability (Form I-601) accordingly. *Decision of the District Director*, dated December 4, 2002.

On appeal, counsel contends that the applicant does establish extreme hardship to her spouse. Counsel asserts that the applicant has several favorable factors including the existence of family ties in the United States, a bona fide marriage, good moral character and the difficulty of adjustment to life in Ghana. *Form I-290B*, dated December 17, 2002.

The record contains an affidavit of the applicant's spouse, dated July 26, 2002; two articles addressing country conditions in Ghana and a brief from counsel, dated August 14, 2002. 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 made a willful misrepresentation of a material fact by using a passport belonging to another individual to obtain admission to the United States.

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 the alien herself 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 husband. 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).

Matter of Cervantes-Gonzalez, 22 I&N Dec. 560, 565-566 (BIA 1999) provides a list of factors the Bureau 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 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.

Counsel contends that the applicant's spouse would suffer extreme hardship as a result of relocating to Ghana to remain with the applicant because he would lose the medical insurance he currently has as a benefit of his employment in the United States and would be subject to inadequate health care in Ghana owing to poor medical conditions in the applicant's home country. *Affidavit of Extreme Hardship to Frank Kwame,* dated July 26, 2002. Counsel also asserts that the applicant's husband will be unable to obtain adequate educational opportunities for his son in Ghana. "Falling Standard in Education Due to Lack of Teachers", *Graphic Online*, dated July 27, 2002.

Although counsel offers evidence of extreme hardship to the applicant's husband if he relocates to Ghana, counsel does not establish extreme hardship to the applicant's spouse if he remains in the United States maintaining his employment, health care and access to educational opportunities for his child. Counsel contends that the applicant's husband will suffer financial hardship if the applicant is denied a waiver of inadmissibility. *Affidavit of Extreme Hardship to* [redacted] ("[H]er departure will cause financial ruin in my life as we have joint liabilities"). The record, however, fails to establish that the applicant's husband is unable to support himself financially in the absence of the applicant. *Letter from Bon Secours Hospital*, dated March 26, 2002 (establishing that [redacted] is employed by the hospital and as of the date of the letter was paid $43,500 annually). Moreover, the U.S. Supreme Court 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.

Counsel asserts that the departure of the applicant would "destroy and disrupt the emotional and psychological dependence" between she and her husband. *Affidavit of Extreme Hardship to* [redacted] The AAO recognizes that the applicant's husband will endure hardship as a result of separation from the applicant. However, his situation, if he remains in the United States, is typical to individuals separated as a result of deportation or exclusion and does not rise to the level of extreme hardship based on the record. 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.

Further, the AAO notes that counsel's repeated assertions indicating that the applicant would be eligible for voluntary departure as a result of being a person of good moral character are unpersuasive in the context of an application for waiver of inadmissibility. Counsel fails to articulate the relevance of his assertion to the applicant's circumstances. *Statement and Brief in Support of Approval of Waiver Application and Substantial Equities Meriting Favorable Exercise of Discretion*, dated August 14, 2002.

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(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.