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U.S. Department of Homeland Security
Citizenship and Immigration Services
Administrative Appeals Office MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

[redacted]

H2

FILE: [redacted] Office: BALTIMORE Date: JUN 30 2009

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:

[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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Ellen C. Johnson

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Baltimore, 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 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 to procure a visa, other documentation, or admission into the United States or other benefit provided under the Act by fraud or willful misrepresentation. 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 U.S. citizen wife and permanent resident mother.

The district director concluded that the applicant 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. *Decision of the District Director*, dated November 13, 2005.

On appeal, counsel for the applicant contends that the applicant's wife and mother will suffer extreme hardship if the applicant is compelled to depart the United States. *Statement from Counsel on Form I-290B*, dated December 11, 2006. Counsel asserts that the district director misinterpreted facts and law in the present matter. *Id.* at 1. Counsel contends that the district director failed to analyze the specific facts of the present matter in light of cited law. *Id.* Counsel states that the district director failed to assess all potential elements of hardship. *Id.*

The record contains a brief from counsel in support of the appeal; copies of birth records for the applicant, the applicant's wife, and the applicant's children; copies of passports for the applicant, the applicant's wife, and the applicant's mother; statements from the applicant's wife, the applicant's mother, the applicant's friend, the applicant's brother-in-law, and the applicant's sisters; financial documentation for the applicant and his wife; documentation regarding the applicant's employment; documentation regarding the applicant's wife's educational activities; tax records; a psychological evaluation for the applicant's wife; a letter regarding the applicant's adoptive son's diagnosis of sickle cell disease; reports on conditions in Cameroon; a copy of the applicant's wife's naturalization certificate; a copy of the applicant's marriage certificate; a copy of a deed for real property owned by the applicant; copies of documents relating to the applicant's insurance; a summary of the applicant's assets, and; information regarding the applicant's misrepresentation of his marital status in a prior proceeding. 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 in connection with a prior Form I-485 application to adjust his status to permanent resident filed on June 27, 2003. Specifically, on October 13, 2006 the applicant he claimed he was single in order to adjust his status as the unmarried son of a permanent resident, when he was in fact married. Accordingly, the applicant 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). The applicant does not contest his inadmissibility on appeal.

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 applicant experiences upon removal is not a basis for a waiver under section 212(i) of the Act; the only relevant hardship in the present case is hardship suffered by the applicant's wife or mother. 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 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 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.

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).

On appeal, counsel contends that the applicant's wife and mother will suffer extreme hardship if the applicant is compelled to depart the United States. *Statement from Counsel on Form I-290B*, dated December 11, 2006. Counsel states that the applicant is an attorney at the International Finance

Corporation/World Bank Group in G-4 status. *Brief from Counsel*, submitted January 11, 2007. Counsel provides that the applicant and his wife have two children, and that they raise two more from the applicant's prior relationship. *Id.* at 1. Counsel notes that the applicant's mother is a permanent resident in the United States. *Id.* Counsel asserts that the applicant is the sole income earner for the family. *Id.*

Counsel suggests that U.S. Citizenship and Immigration Services (USCIS) should take into consideration the gravity of the applicant's misrepresentation when considering hardship to his wife and mother. *Id.* at 2. Counsel asserts that the applicant's misrepresentation was not egregious given that he waited for 10 years for his adjustment interview, and he was married only three months prior to the interview date. *Id.*

Counsel asserts that the Board of Immigration Appeals (BIA) has identified nine factors to consider in assessing extreme hardship, and that the district director failed to consider them all. *Id.* at 3. Counsel notes that USCIS must analyze factors including age, length of residence in the United States, family ties to the United States, health of the qualifying relatives, financial status, business or occupation, immigration history of the applicant, the position of the applicant in his community, and economic and political conditions in the country of removal. *Id.* at 5.

Counsel contends that hardship to the applicant's children is relevant to the present matter. *Id.* at 3. Counsel provides that, should the present application be denied, the applicant's wife will have to choose between residing in the United States with their children while enduring family separation, or relocating to Cameroon where she and her children will lose access to the benefits of residence in the United States. *Id.* Specifically, counsel notes that the applicant's wife and children would lose access to advanced healthcare and education. *Id.* Counsel provides that the applicant's wife will suffer emotional hardship if she remains in the United States and her children move to Cameroon with the applicant. *Id.* Counsel states that the applicant's mother would also endure emotional hardship as a result of challenges faced by the applicant's children. *Id.*

Counsel asserts that the circumstances of the applicant's two adult children are relevant to the present matter, as they are college students and the applicant and his wife take care of them. *Id.* at 4. Counsel contends that, should the applicant depart the United States, the applicant's adult children will have to relocate with him thus they will cease to be able to attend college in the United States. *Id.* Counsel states that the applicant's son with sickle cell disease would not obtain care in Cameroon that is equivalent to that he receives in the United States. *Id.* Counsel asserts that the challenges of the applicant's adult children would add to emotional hardship suffered by the applicant's wife and mother. *Id.*

Counsel asserts that, despite the fact that the applicant's wife earned $29,579 and $43,951 in 2004 and 2003 respectively, she will have economic difficulty should she care for her two children alone in the United States. *Id.* Counsel states that the applicant's wife would also need to support the applicant's mother in the applicant's absence. *Id.* Counsel contends that the applicant's mother cannot work due to diabetes and high blood pressure which requires medical care and medication. *Id.* In summary, counsel contends that the applicant's wife would have to pay for food, shelter,

daycare, medical expenses, and other expenses for her children, the applicant's mother, and herself. *Id.*

Counsel asserts that a psychological evaluation previously submitted for the applicant's wife shows that she displays symptoms of depression, anxiety, hot flashes, difficulty sleeping, and a lack of concentration. *Id.* Counsel states that the applicant provided evidence that his mother suffers from diabetes and high blood pressure. *Id.* Counsel asserts that the applicant's wife's and mother's health will deteriorate if separated from the applicant or if they relocate to a third world country. *Id.*

Counsel contends that the applicant's wife will experience significant emotional hardship if she is separated from the applicant, and that such hardship will be exacerbated by other negative factors such as financial hardship, health issues, and hardship to her children. *Id.* at 4-5.

Counsel asserts that the applicant is age 44, thus it would be difficult for him to start a new life in Cameroon. *Id.* at 5. Counsel provides that the applicant's mother is ailing and she would have a difficult time adjusting to Cameroon. *Id.* Counsel notes that the applicant left Cameroon 17 years ago, thus it would be hard for him to adjust back. *Id.* Counsel explains that the applicant has a stable financial life in the United States. *Id.* Counsel asserts that the applicant's employment has a social benefit. *Id.* at 5-6. Counsel contends that the applicant's removal from the United States would be a loss to his community. *Id.* at 6. Counsel notes that the applicant would be removed to Cameroon, where conditions are unstable. *Id.*

The applicant submitted documentation to show that his household income totals $223,229 per year. *Form I-864, Affidavit of Support*, dated March 25, 2006. The applicant reported that the total cash value of his assets is $1,202,000, including $76,000 in savings, $31,000 in stocks, bonds, and/or certificates of deposit, and $900,000 in real estate. *Id.* at 4. The applicant's wife stated that she has not worked since June 2005 when she decided to pursue full-time graduate studies. *Attachment to Form I-864, Affidavit of Support*. She explained that she relies on the applicant's income and assets. *Id.* The applicant's wife stated that the applicant had an estimated gross salary of $201,001, as well as expatriate allowances amounting to over $20,000 annually. *Id.*

The applicant's wife stated that she married the applicant on August 2, 2003, and that they have two sons together, as well as two children from the applicant's prior relationship. *Statement from the Applicant's Wife*, dated April 12, 2006. She explained that all of their children reside with them, and that they have a live-in nanny. *Id.* at 1. She stated that she has resided in the United States since she was 10 years old, and that her parents are Cameroonians who worked for the United Nations. *Id.* She explained that she was born in Zambia and she has never resided in Cameroon. *Id.* She stated that she has three siblings, all of whom reside in the United States. *Id.* She explained that she previously worked for the Washington, DC Department of Health, but that she stopped in order to focus on her studies in education to become a teacher. *Id.*

The applicant's mother indicated that she has been a permanent resident of the United States since 1993. *Statement from the Applicant's Mother*, dated May 21, 2006. She explained that she was born in Cameroon on August 18, 1940, and that she has been unemployed since 1990. *Id.* at 1. She

indicated that she has high blood pressure and diabetes, and that she has relied on the applicant's financial assistance and moral support. *Id.*

The applicant submitted an evaluation of his wife conducted by a professional counselor and marriage and family therapist, [redacted]. Dr. [redacted] reported that the applicant's wife's parents worked for the United Nations and they were transferred to Geneva when she was one year old. *Report from* [redacted], dated April 10, 2006. [redacted] indicated that the applicant's wife experienced hardship as a child due to the ongoing absence of her father and the victimization of her mother when her father was present. *Id.* at 4. [redacted] stated that the applicant's wife had challenges due to her parents relocating and her need to learn new languages and adapt to a new country socially. *Id.* [redacted] indicated that the applicant's wife is fearful of another change after relocating with her parents during childhood. *Id.* at 5.

The applicant provided a letter from an individual from the Howard University College of Medicine who attests that the applicant's 22-year-old son has been under his care for sickle cell disease. *Letter from* [redacted] [last name illegible], dated January 23, 2006.

The applicant submitted statements from a friend, his brother-in-law, and his sisters in which they attest to the strength and closeness of the applicant's family, and the fact that they visit with other family members in the United States regularly.

Upon review, the applicant has not established that a qualifying relative will experience extreme hardship if he is prohibited from remaining in the United States. The applicant contends that his wife will experience hardship if he departs the United States and she remains. The applicant's wife suggests that she will endure economic challenges should she be compelled to meet her needs in the applicant's absence. However, the applicant has not shown that his wife would suffer unusual economic hardship. The record reflects that the applicant and his wife have significant assets that may be used to meet their needs while they readjust to a new living arrangement. While the applicant's wife was not employed as of 2006, the record shows that she was a graduate student with substantial progress toward her degree. Thus, it is evident that she is capable of attaining employment to help meet her needs.

It is noted that the applicant has not reported any unusual expenses his wife would have in his absence. The AAO appreciates the challenges of acting as a single parent and supporting two children, yet, as noted above, the applicant's family has financial resources such that his wife would not immediately rely solely on her income.

The applicant's wife asserts that she would need to support the applicant's mother should the applicant depart. However, the record does not show that the applicant's wife would have responsibility for the applicant's mother, or that she would be required to use her income to support the applicant's mother. It is noted that the applicant's mother indicated that she is retired, yet the applicant has not explained his mother's employment history or whether she receives retirement benefits. Thus, the AAO is unable to conclude that the applicant's mother's economic needs would create a burden for the applicant's wife.

The record contains references to the applicant's two adult children from a prior relationship. Yet, the applicant has not shown that his wife would be compelled to support them financially should the applicant depart the United States. Nor has the applicant established that they are unable to work, or that they would be unable to continue their studies in his absence.

It is further noted that the applicant has been employed in a professional capacity for an organization that operates in numerous countries. The applicant has not shown that he would be unable to secure comparable employment abroad, or that he would be unable to continue working with his present employer from outside the United States. Thus, the applicant has not shown that his family will be deprived of any financial contribution from him should he depart the United States.

The AAO observes that the applicant has earned significant income and accumulated assets. It is important to note that the applicant is not prejudiced due to his positive financial status. However, USCIS must evaluate the circumstances of the applicant's qualifying relatives to determine whether they will experience hardships that can be distinguished from those commonly expected when families relocate or are separated due to inadmissibility. It is reasonable that a negative change in economic circumstances can create emotional hardship, regardless of the monetary value of the change or associated reduction in lifestyle. Yet, based on the evidence in the record, the AAO cannot conclude that the applicant's wife would endure unusual economic challenges.

The applicant's wife has family and employment ties to the United States. Should she remain, she will not lose the benefit of regular contact with her family and community.

The applicant's wife expressed that she is close with the applicant and that she will experience emotional hardship if they are separated. However, the applicant has not distinguished his wife's emotional hardship from that which is commonly experienced by those separated from family due to the inadmissibility of a spouse. 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 has examined the report from [redacted] It is observed that the majority of [redacted] report consists of recounting facts as learned from the applicant and his wife. [redacted] suggested that the applicant's wife's childhood experiences make her particularly sensitive to the prospect of relocating abroad. Yet, [redacted] report does not show that the applicant's wife will experience unusual emotional hardship should she remain in the United States. It is noted that [redacted] report was generated for the purpose of this proceeding and does not represent treatment for a mental health problem or an ongoing relationship with a mental health professional. Thus, while the AAO

values to opinion of a health professional, report is not sufficient to establish that the applicant's wife will experience extreme emotional hardship. The applicant has not asserted or shown that his wife has other matters of health that would create hardship for her should the present waiver application be denied.

The record contains references to hardships the applicant's children will suffer should the applicant depart the United States. Direct hardship to an applicant's child is not a basis for a waiver under section 212(i)(1) of the Act. However, as correctly noted by counsel, all instances of hardship to qualifying relatives must be considered in aggregate. Hardship to a family unit or non-qualifying family member should be considered to the extent that it has an impact on qualifying family members. It is reasonable that the applicant's children will encounter some emotional challenges due to the applicant departing the United States. However, the applicant has not shown that his two younger children will endure emotional hardship that can be distinguished from that commonly expected when families are separated due to inadmissibility. The applicant has not established that his two adult children would be unable to continue their studies in the United States, or that they would be compelled to join him abroad. While it is evident that the absence of a parent often involves considerable emotional consequences for a child, the applicant has not shown that hardships to his children will elevate his wife's hardship to extreme hardship.

The AAO has considered all elements of hardship to the applicant's wife in aggregate should she remain in the United States and he depart. It is evident that she will likely be compelled to begin working, she will act as a single parent for two young children, she will possibly endure a change in her economic lifestyle, and she will be faced with separation from her husband. Yet, based on the foregoing, the applicant has not shown that his wife's challenges will be greater than those commonly faced by families separated due to inadmissibility such that she will experience extreme hardship.

The AAO acknowledges that conditions in Cameroon pose many challenges compared to residing in the United States, including significantly fewer employment opportunities, political instability, a lack of comparable health facilities and health care, fewer educational opportunities, prevalent crime, and human rights abuses. While the applicant's family's economic status would likely alleviate some concerns faced by common residents in Cameroon, it is evident that the applicant's wife would face significant hardship should she relocate there after building a life in the United States. It is reasonable that the applicant's wife's hardship would be compounded due to the challenges her young children would face. Thus, the AAO finds that relocating to Cameroon would constitute extreme hardship for the applicant's wife.

In order for the applicant to show eligibility for consideration for a waiver under section 212(i)(1) of the Act, he must show that denial of the application "would result in extreme hardship" to a qualifying relative. As the applicant has not shown that his wife would experience extreme hardship if she remains in the United States, he has not shown that she would experience extreme hardship. Section 212(i)(1) of the Act.

The applicant has not submitted sufficient evidence to show that his mother will experience extreme hardship if he is compelled to depart the United States. The AAO acknowledges that the applicant's mother will experience emotional consequences if the applicant departs the United States and she remains. Yet, the applicant has not established that his mother will endure psychological consequences that can be distinguished from those ordinarily experienced when family members are separated due to inadmissibility. The record does not reflect whether the applicant's mother is married or whether she resides with other people or relatives. The applicant has not shown that his mother does not have other individuals in the United States on who she can call for emotional support.

The applicant's mother asserted that she relies on the applicant for economic support, as she has been retired since 1992. Yet, as noted above, the applicant has not stated whether his mother receives retirement benefits. Nor has the applicant provided an account of his mother's regular expenses. The applicant has not established that he would be unable to continue to provide financial assistance to his mother should he reside outside the United States. The applicant has not shown that hardship to his children would elevate his mother's challenges to extreme hardship. Thus, the applicant has not shown by a preponderance of the evidence that his mother would endure significant economic hardship should he depart the United States and she remain.

The AAO acknowledges that the applicant's mother would endure hardship should she relocate to Cameroon. Yet, the applicant has not provided whether his mother has ties to Cameroon, or her length or residence in the United States. The applicant has not shown that his mother would lose his economic support in Cameroon or that she would otherwise endure significant economic hardship. The applicant has not shown that his mother has health issues that may not be addressed in Cameroon. While the AAO acknowledges that conditions in Cameroon are unfavorable, as identified above, he has not submitted sufficient explanation or evidence to show by a preponderance of the evidence that his mother would experience extreme hardship should she relocate there. Based on the foregoing, the applicant has not shown that his mother will experience extreme hardship should the present waiver application be denied.

Counsel suggests that USCIS should take into consideration the gravity of the applicant's misrepresentation when considering hardship to his wife and mother. However, section 212(i)(1) of the Act does not establish different standards of extreme hardship depending on the nature and circumstances of an applicant's misrepresentation. Counsel further asserted that USCIS must analyze the immigration history of the applicant and the position of the applicant in his community. However, the applicant has not shown that his immigration history or position in his community present factors that elevate his wife's or mother's hardship to extreme hardship.

All elements of hardship to the applicant's wife and mother have been considered individually and in aggregate. Based on the foregoing, the applicant has not provided sufficient documentation to show that his wife or mother will experience extreme hardship if the present waiver application is denied. 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(i)(1) 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.