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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

H5

[redacted]

Date: MAR 2 1 2012 Office: MOUNT LAUREL FILE: [redacted]

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Mount Laurel, New Jersey, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record establishes that the applicant is a native and citizen of Ghana who attempted to procure entry to the United States in 1995 by presenting a fraudulent passport. The applicant was thus 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 attempted to procure entry to the United States by fraud or willful misrepresentation. The applicant does not contest the field office director's finding of inadmissibility. Rather, she 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 her U.S. citizen spouse and children.

The field office 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 Field Office Director,* dated September 1, 2009.

In support of the appeal, counsel submits a brief and an affidavit from the applicant's spouse. The entire record was reviewed and considered in rendering this decision.

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 immigrant 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 waiver of inadmissibility under section 212(i) of the Act is dependent on a showing that the bar to admission imposes extreme hardship on a qualifying relative, which includes the U.S. citizen or lawfully resident spouse or parent of the applicant. The applicant's U.S. citizen spouse is the only qualifying relative in this case. Hardship to the applicant or the children can be considered only

insofar as it results in hardship to a qualifying relative. If extreme hardship to a qualifying relative is established, the applicant is statutorily eligible for a waiver, and USCIS then assesses whether a favorable exercise of discretion is warranted. *See Matter of Mendez-Moralez,* 21 I&N Dec. 296, 301 (BIA 1996).

Extreme hardship is "not a definable term of fixed and inflexible content or meaning," but "necessarily depends upon the facts and circumstances peculiar to each case." *Matter of Hwang*, 10 I&N Dec. 448, 451 (BIA 1964). In *Matter of Cervantes-Gonzalez,* the Board provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship to a qualifying relative. 22 I&N Dec. 560, 565 (BIA 1999). 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.* The Board added that not all of the foregoing factors need be analyzed in any given case and emphasized that the list of factors was not exclusive. *Id.* at 566.

The Board has also held that the common or typical results of removal and inadmissibility do not constitute extreme hardship, and has listed certain individual hardship factors considered common rather than extreme. These factors include: economic disadvantage, loss of current employment, inability to maintain one's present standard of living, inability to pursue a chosen profession, separation from family members, severing community ties, cultural readjustment after living in the United States for many years, cultural adjustment of qualifying relatives who have never lived outside the United States, inferior economic and educational opportunities in the foreign country, or inferior medical facilities in the foreign country. *See generally Matter of Cervantes-Gonzalez*, 22 I&N Dec. at 568; *Matter of Pilch*, 21 I&N Dec. 627, 632-33 (BIA 1996); *Matter of Ige*, 20 I&N Dec. 880, 883 (BIA 1994); *Matter of Ngai*, 19 I&N Dec. 245, 246-47 (Comm'r 1984); *Matter of Kim*, 15 I&N Dec. 88, 89-90 (BIA 1974); *Matter of Shaughnessy*, 12 I&N Dec. 810, 813 (BIA 1968).

However, though hardships may not be extreme when considered abstractly or individually, the Board has made it clear that "[r]elevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists." *Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996) (quoting *Matter of Ige*, 20 I&N Dec. at 882). The adjudicator "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." *Id.*

The actual hardship associated with an abstract hardship factor such as family separation, economic disadvantage, cultural readjustment, et cetera, differs in nature and severity depending on the unique circumstances of each case, as does the cumulative hardship a qualifying relative experiences as a result of aggregated individual hardships. *See, e.g., Matter of Bing Chih Kao and Mei Tsui Lin*, 23 I&N Dec. 45, 51 (BIA 2001) (distinguishing *Matter of Pilch* regarding hardship faced by qualifying

relatives on the basis of variations in the length of residence in the United States and the ability to speak the language of the country to which they would relocate). For example, though family separation has been found to be a common result of inadmissibility or removal, separation from family living in the United States can also be the most important single hardship factor in considering hardship in the aggregate. *See Salcido-Salcido*, 138 F.3d at 1293 (quoting *Contreras-Buenfil v. INS,* 712 F.2d 401, 403 (9th Cir. 1983)); *but see Matter of Ngai*, 19 I&N Dec. at 247 (separation of spouse and children from applicant not extreme hardship due to conflicting evidence in the record and because applicant and spouse had been voluntarily separated from one another for 28 years). Therefore, we consider the totality of the circumstances in determining whether denial of admission would result in extreme hardship to a qualifying relative.

The applicant's U.S. citizen spouse asserts that he will experience financial and emotional hardship were he to remain in the United States while his wife relocated abroad as a result of her inadmissibility. To begin, the applicant's spouse contends that as a result of the problematic economic conditions in Ghana, his wife will not be able to support herself in Ghana and provide for her family in the United States, thereby causing him financial hardship. In addition, the applicant's spouse explains that he will be completely devastated were he to be separated on a long-term basis from his wife as she provides him with emotional and psychological support. Moreover, the applicant's spouse asserts that the applicant plays a critical role in their three children's lives and were she to relocate abroad, the children would experience hardship, thereby causing him hardship as their father. *Affidavit of* [redacted] dated September 21, 2009.

To begin, in reference to the emotional hardship referenced by the applicant's spouse, the AAO notes that although the input of any mental health professional is respected and valuable, the submitted evaluation from [redacted] from May 2006, more than 3 years prior to the appeal submission, and is based on one interview between the applicant's family and the psychologist. The record fails to reflect an ongoing relationship between a mental health professional and the applicant's spouse. Further, no documentation has been provided on appeal establishing the applicant's specific financial contributions to the household to support the applicant's spouse's assertion that were his wife to relocate abroad, she will be unable to assist him in the finances of the household, thereby causing him financial hardship. The AAO notes that pursuant to the applicant's Form G-325A, Biographic Information, she has been unemployed since December 2006 and has thus not been contributing financially to the household. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *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)).

Moreover, no supporting documentation has been provided establishing the applicant's spouse's work schedule and his current income and expenses to establish that he is unable to afford a caretaker for his children or that the applicant's spouse is unable to alter his work schedule should the applicant relocate abroad. Alternatively, it has not been established that the applicant is unable to obtain gainful employment in Ghana that would permit her to assist her husband and children financially in the United States should the need arise. The AAO notes that articles regarding country

conditions in Ghana, submitted in 2006, are general in nature and do not specifically establish that the applicant will be unable to obtain gainful employment in Ghana. Finally, with respect to the applicant's child's learning disability, no documentation has been provided on appeal by counsel establishing the child's current social and/or academic needs, the gravity of the situation, and what specific hardships he, and by extension, his father, will experience were the applicant to relocate abroad.

The AAO recognizes that the applicant's spouse will endure hardship as a result of long-term separation from the applicant. However, his situation, if he remains in the United States, is typical to individuals separated as a result of removal and does not rise to the level of extreme hardship based on the record. The AAO concludes that based on the evidence provided, it has not been established that the applicant's spouse will experience extreme hardship were he to remain in the United States while the applicant relocates abroad due to her inadmissibility.

With respect to relocating abroad to reside with the applicant due to her inadmissibility, the applicant's spouse asserts that his children would experience hardship in Ghana. To begin, he explains that his children are acclimated to the U.S. lifestyle and relocating abroad to reside with the applicant would have a negative psychological impact. The applicant's spouse further explains that his children do not speak any of the languages spoken in Ghana. *Supra* at 1-2. In a separate statement, the applicant's spouse references that [redacted], his son, will not be able to obtain the educational services he needs. *Letter from* [redacted], dated May 14, 2006. Finally, previous counsel contends that as a result of the problematic country conditions in Ghana, including a substandard economy, poor medical care and general living conditions, lack of educational resources for the children, and societal discrimination, the applicant's spouse and children will experience hardship. *Certification of Counsel,* dated May 22, 2006.

To begin, as noted above, articles about country conditions in Ghana submitted with the Form I-601 in 2006 are general in nature and do not specifically establish that the applicant's spouse would experience extreme hardship were he to relocate to Ghana, his native country, at this time to reside with the applicant. Moreover, although previous counsel submitted medical documentation pertaining to the applicant's spouse with the Form I-601, the AAO notes that said documentation is from 2006 and earlier, three years prior to the appeal submission. On appeal, counsel has failed to reference or provide documentation from the applicant's spouse's treating physician establishing the applicant's medical conditions, if any, the current treatment plan, the gravity of the situation, what limitations the applicant's spouse has, and what hardships he will experience were he to relocate abroad.

As for the hardships referenced with respect to the children relocating abroad, the AAO notes that English is the official language in Ghana[1] and it has not been established that the children, most notably [redacted], would be unable to continue their academic and social development while residing

[1] *Background Note: Ghana, Bureau of African Affairs, U.S. Department of State,* dated December 21, 2011.

abroad. It has thus not been established that the applicant's spouse will experience extreme hardship were he to relocate to his native country to reside with the applicant due to her inadmissibility.

The record, reviewed in its entirety, does not support a finding that the applicant's spouse will face extreme hardship if the applicant is unable to reside in the United States. Rather, the record demonstrates that he will face no greater hardship than the unfortunate, but expected, disruptions, inconveniences, and difficulties arising whenever a spouse is removed from the United States or is refused admission. There is no documentation establishing that the applicant's spouse's hardships are any different from other families separated as a result of immigration violations. Although the AAO is not insensitive to the applicant's spouse's situation, the record does not establish that the hardships he would face rise to the level of "extreme" as contemplated by statute and case law.

In proceedings for application for waiver of grounds of inadmissibility, 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. The application is denied.