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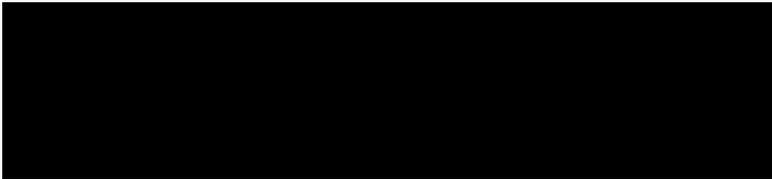
Office: BALTIMORE, MARYLAND Date: MAR 01 2005

IN RE:



APPLICATION: Application for Waiver of Grounds of Inadmissibility under § 212(h)  
of the Immigration and Nationality Act, 8 U.S.C. § 1182(h)

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 Acting District Director for Services, 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 Liberia who was found to be inadmissible to the United States pursuant to § 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of a crime involving moral turpitude. 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 § 212(h) of the Act, 8 U.S.C. § 1182(h), so that he may reside with his wife and children in the United States.

The acting district director concluded that the applicant had failed to establish that extreme hardship would be imposed upon his qualifying relatives. The application was denied accordingly. The applicant then submitted a motion to reopen and reconsider. The interim district director for services affirmed his prior decision after considering the evidence tended in support of reopening and/or reconsidering the case. The applicant subsequently submitted the instant appeal. On appeal, the applicant, through counsel, asserts that his youngest daughter suffers from serious health problems; therefore, the applicant's presence is necessary in order to properly care for her. Counsel states that the applicant's absence would cause his wife extreme hardship, as she would find it difficult to care for their two children and assume all their financial responsibilities herself. Counsel also maintains that the applicant's wife and children would suffer extreme emotional hardship due to his removal.

Section 212(a)(2) of the Act states in pertinent part that:

(A)(i) [A]ny alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of-

(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime . . . is inadmissible.

A crime involves moral turpitude where knowing or intentional conduct is an element of the offense. *Matter of Perez-Contreras*, 20 I&N Dec. 615, 618 (BIA 1992). In this case, the record reflects that on December 19, 1994, the applicant was convicted of a state benefits violation under 720 Illinois Compiled Statutes § 17A-3(a)(1). The applicant was sentenced to one year probation and was ordered to pay restitution.

Section 212(h) of the Act provides, in pertinent part, that:

(h) The Attorney General may, in his discretion, waive the application of subparagraphs (A)(i)(I) . . . of subsection (a)(2) . . . if -

....

(1) (B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the alien's denial of admission would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien . . . .

A waiver of the bar to admission to the United States is dependent upon the alien's showing that the bar imposes an extreme hardship on a qualified family member. Congress provided this waiver but limited its application. By this limitation, it is evident that Congress did not intend that a waiver be granted merely due to the fact that a

qualifying relationship exists. The key term in the provision is "extreme." Therefore, only in cases of great actual or prospective injury to the United States citizen or permanent resident will the bar be removed. Common results of the bar, such as separation, financial difficulties, and such, in themselves are insufficient to warrant approval of an application unless combined with more extreme impacts. See *Matter of Shaughnessy*, 12 I&N Dec. 810 (BIA 1968).

In *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565-66 (BIA 1999), the Board of Immigration Appeals (BIA) provided a list of factors it deemed relevant in determining whether an alien had established extreme hardship. The 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. In *Matter of Ige*, 20 I&N Dec. 880, 882, (BIA 1994), the BIA held that "relevant [hardship] factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists."

Counsel asserts that the applicant has established that his wife and children will suffer extreme financial and emotional hardship, and his youngest daughter will suffer physical hardship if the applicant's waiver of inadmissibility is not granted. The record contains three doctors' letters regarding the applicant's daughter's health problems. The record reflects that the child suffers from asthma and several allergies. On April 14, 2003, Dr. [REDACTED] wrote that the applicant's child, who was seven months old at that time, required medication and close follow-up for her asthma. On January 19 2004, Dr. [REDACTED] wrote that the applicant's daughter required "careful nursing and frequent breathing treatments when she becomes ill." Dr. [REDACTED] stated that "it would be difficult for either parent to manage her care alone." Finally, On January 27, 2004, Dr. [REDACTED] wrote that the applicant's daughter required "close vigilant care and access to nebulization treatments to insure her good health."

A careful review of all the medical documentation on the record reveals a lack of specificity regarding the applicant's daughter's needs. The medical letters do not indicate what is meant by "frequent" treatments, or "close vigilant care." The record does not indicate how often she becomes ill, or the level of difficulty involved and time necessary to administer the required care. The medical documentation does not demonstrate that the applicant's daughter's condition is beyond her mother's capability to manage; therefore, it cannot be concluded that the applicant's absence would cause the applicant's wife extreme hardship in view of their daughter's situation.

Moreover, the financial documentation on the record does not indicate that the applicant's wife, who is employed, would be unable to make necessary household and financial adjustments in the applicant's absence. The record contains no documentation regarding conditions in Liberia that would render it impossible for the applicant to find employment or re-establish himself in his home country. There is no evidence that the applicant could not make some financial contribution to his family even after his removal. The record also does not show that the applicant's wife has no other source of funds or income other than the applicant's employment. In sum, the

record does not establish that the applicant's wife would undergo severe financial hardship on account of his removal.

Counsel contends that the applicant's wife would suffer emotional consequences beyond those which are normally experienced in such cases. In support of this assertion, counsel refers to a letter written by [REDACTED] LCSW-C. Counsel refers to Ms. [REDACTED] report as a "medical" report, although Ms. [REDACTED] is not a medical practitioner. It should be noted that the AAO does not attempt to render medical opinions, but simply to analyze the evidence as it is presented. The AAO recognizes the emotional strain occasioned by the removal of a spouse, and there is no effort in these proceedings to minimize the suffering involved. Nevertheless, in order to demonstrate severe hardship due to psychological difficulties, it must be shown that the applicant's spouse is affected beyond the norm, which, unfortunately, generally includes emotional stress and trauma, even depression and physical symptoms.

Ms. [REDACTED] report of June 5, 2002 does not indicate that Ms. [REDACTED] ever provided therapy to the applicant's wife prior to or subsequent to the evaluation. Ms. [REDACTED] did not recommend any medical therapy for the applicant's wife, nor did she find that the applicant's wife was at risk of harming herself or others or becoming unable to function in her every day life. No information is provided regarding whether the applicant's wife is being treated by a doctor or psychiatrist. The record does not contain any evidence to the effect that the applicant's wife's stress ever rendered her unable to care for herself or her children, or that her physical symptoms incapacitated or disabled her. A thorough review of the evidence on the record does not reveal that the applicant's wife's symptoms, when compared with those of similarly situated individuals, cause her severe hardship.

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 (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 *Perez v. INS*, 96 F.3d 390 (9<sup>th</sup> Cir. 1996), the Ninth Circuit Court of Appeals defined "extreme hardship" as hardship that was unusual or beyond that which would normally be expected upon deportation. The Ninth Circuit emphasized that the common results of deportation are insufficient to prove extreme hardship. 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.

A review of the record, when considered in its totality, reflects that the applicant has failed to show that his wife and children would suffer extreme hardship if his waiver of inadmissibility is denied. Having found the applicant ineligible for relief, no purpose would be served in discussing whether the applicant merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under § 212(a)(2)(A) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* § 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.