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U.S. Citizenship
and Immigration
Services

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FILE:



Office: BALTIMORE

Date:

MAR 26 2007

IN RE:

Applicant:



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, 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 Ethiopia 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 and reside with her U.S. citizen father.

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 May 9, 2003.

On appeal, counsel for the applicant contends that the applicant's father will suffer extreme hardship if the applicant is prohibited from remaining in the United States. *Brief from Counsel*, submitted on July 1, 2003. Counsel contends that the district director failed to adequately consider evidence submitted, including a letter from a physician regarding the applicant's father's health, and an article that reflects the applicant's father's potential risk of harm should he return to Ethiopia. *Id.*

The record contains a brief from counsel; an evaluation of the applicant's father from a licensed psychologist; reports on conditions in Ethiopia; a copy of the applicant's birth certificate; a copy of a Form I-864, Affidavit of Support, executed by the applicant's father on the applicant's behalf; letters confirming the applicant's and her father's employment; copies of tax records for the applicant's father; affidavits from the applicant and her father; a copy of the applicant's father's naturalization certificate; documentation in connection with the applicant's father's former asylee status; a letter from a physician regarding the applicant's father's physical health; a summary of the applicant's father's children; a copy of the applicant's father's marriage certificate, and; documentation reflecting that the applicant's father's Form I-730 petition on behalf of his wife was approved. 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 on or about September 13, 2000 the applicant entered the United States by using a passport that belonged to another individual. Thus, the applicant entered the United States by fraud and willfully misrepresenting a material fact (her identity), and she 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 her 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 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 U.S. citizen father. 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.

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).

The applicant explained that she and her family members fled Ethiopia, and that her father, mother, and six siblings now reside in the United States. *Statement from Applicant*, dated June 24, 2002. She indicated that her father and four of her siblings are U.S. citizens, two of her siblings are permanent residents, and her mother's permanent residence is pending. *Id.* The applicant stated that her mother is separated from her father. *Id.* The applicant explained that she only lives with her father, and that she does all of his cooking, cleaning, washing, and shopping. *Id.* She provided that her father suffers from high blood pressure and high cholesterol, and that he needs to avoid stress. *Id.* The applicant indicated that she is employed full-time as a banquet server at a rate of \$11.29 per hour. *Id.* The applicant stated that her father relies on her financial contribution to their household. *Id.* She provided that her father will suffer significant emotional and psychological hardship if she returns to Ethiopia, as it is dangerous for her there due to her father's background. *Id.*

The applicant's father explained that he fled Ethiopia and came to the United States on May 26, 1991, and that all seven of his children and his estranged wife are also in the United States. *Statement from Applicant's Father*, dated June 10, 2002. He noted that one of his daughters is a medical doctor and she works for the U.S. government in West Virginia. *Id.* at 1. He further noted that one of his sons took the Maryland State bar

exam. *Id.* at 2. The applicant's father explained that the applicant provided childcare for her three sisters prior to accepting her current employment. *Id.* He stated that he resides with the applicant presently, but prior to her arrival in the United States he resided with one of his other daughters, Ethiopia, for 10 years. *Id.* He indicated that Ethiopia and her husband paid all of their household's living expenses including rent, utilities, and groceries. *Id.* He stated that he contributed \$300 per month. *Id.* He provided that his cultural background resulted in his ignorance of domestic tasks such as cooking and cleaning, and his daughter Ethiopia performed all such duties. *Id.* He stated that as Ethiopia's children grew older and costs of the household increased, he saw a need to move out to relieve the burden on them. *Id.*

The applicant's father stated that he now resides with the applicant, and she meets the needs that were previously satisfied by Ethiopia. *Id.* at 3. He stated that the applicant helps him pay his household expenses, and she cooks and performs cleaning and domestic tasks. *Id.* He indicated that he earns \$9.60 per hour for 40 hours per week as a front desk clerk, and \$8.15 per hour for 16 hours per week in a similar job. *Id.* The applicant's father explained that he suffers from high blood pressure and cholesterol, for which he takes daily medication and avoids stress. *Id.*

The applicant's fathers explained that he continues to face a risk of harm in Ethiopia, and he cannot return there. *Id.* He stated that the applicant's life will be in danger if she returns to Ethiopia. *Id.* He expressed that he will suffer extreme emotional hardship if the applicant is compelled to return to Ethiopia, as all of his family members would no longer be together in the United States, and he would be suffer distress over possible harm to the applicant. *Id.* at 4.

The applicant submitted an evaluation of her father from a licensed psychologist, [REDACTED] Warrier observed that the applicant's father was experiencing significant emotional distress over the prospect of the applicant returning to Ethiopia where she may face persecution. *Report from* [REDACTED] dated June 10, 2003. [REDACTED] reported that the applicant's father stated that if the applicant is forced to return to Ethiopia, he will return also and surrender to the government to save her life. *Id.* at 3. [REDACTED] stated that the applicant's father claimed to have lost seven pounds since he learned of the denial of the applicant's waiver application, and he is having difficulty functioning on a daily basis. *Id.* [REDACTED] further stated that:

[The applicant's father's] profile indicates that he is likely to have problems with intense anxiety, agitation, somatic complaints and anger. There is a distinct possibility that his anxiety is due to current stressors in his life. The most obvious stressor he is facing is the potential deportation of [the applicant]. In the presence of his children, [the applicant's father] has been able to live a very happy and productive life. [The applicant] has been a central figure in his life and it appears that he is very dependent on her for his psychological well being. During the interview, he explained that he "would be broken and crushed" if [the applicant] were to be deported. Although he did not use the term "depressed," it appears that [the applicant's father] may suffer from depression in response to a loss. The deportation of [the applicant] would be precisely such a loss and could likely send him into a downward spiral of depression.

The applicant provided a letter from her father's physician, [REDACTED], in which [REDACTED] stated that the applicant's father suffers from chronic high blood pressure which requires treatment with antihypertensive medications. [REDACTED] dated June 17, 2002. [REDACTED]

further provided that the applicant's father has high cholesterol, and he strongly advises the applicant's father to avoid stress. *Id.*

On appeal, counsel for the applicant contends that the applicant's father will suffer extreme hardship if the applicant is prohibited from remaining in the United States. *Brief from Counsel*, submitted on July 1, 2003. Counsel contends that the district director failed to adequately consider evidence submitted, including the letter from [REDACTED] and an article that reflects the applicant's father's potential risk of harm should he return to Ethiopia. *Id.* Counsel stated that the applicant's father's return to Ethiopia is "out of the question." *Id.* Counsel emphasized that the applicant's father has always depended on someone else to take care of his domestic needs, such as shopping, cooking, and cleaning, and that the loss of the applicant's assistance would be difficult for him. *Id.*

Upon review, the applicant has not established that her father will experience extreme hardship if she is prohibited from remaining in the United States. The applicant's father expresses that he will endure financial hardship if he is compelled to forego the applicant's assistance. However, the record reflects that the applicant's father earns approximately \$26,750 per year, while the applicant earns approximately \$20,000 to \$22,800 per year. The applicant's father earns an income above the 2006 poverty line for a family of two, evaluated as \$13,200. *See Form I-864P, Poverty Guidelines*. It is noted that the applicant has not submitted documentation of her father's regular household expenses, such that the AAO can fully assess the economic impact her departure would have on her father. It is further noted that the applicant's father has six other children in the United States, including one who is a medical doctor and one who sat for the Maryland State bar exam. While the applicant's father has not indicated whether he can call on his other children for economic support if needed, the record suggests that he may do so and the applicant has not shown otherwise. Thus, the applicant has not shown that her father would endure significant hardship due to the lack of her financial support.

The applicant's father expresses that he will be compelled to perform domestic tasks with which he is not familiar if the applicant is unavailable to perform them for him, such as shopping, cooking, and cleaning. However, it is noted that the applicant's father resided with another of his daughters in the United States for 10 years prior to residing with the applicant. The applicant has not provided a clear account of the present location of her six other siblings in the United States. Yet, the record suggests that the applicant's father may call on his other children should he require assistance with domestic tasks. As the applicant's father works two separate jobs for a total of 56 hours per week, it is evident that he is capable of performing daily tasks and navigating transportation systems. The applicant has not shown that her father would endure unusual hardship due to the lack of her assistance in managing his household.

The record shows that the applicant's father suffers from high blood pressure and cholesterol. While the AAO gives consideration to the applicant's father's health in assessing the aggregate effect of all hardships he may face, it is noted that the applicant has not established that her father's health status is severe or that he would suffer significant physical health problems should the applicant depart. It is noted that the medical records for the applicant's father are limited to a one-paragraph letter from his physician. The applicant has not provided documentation to establish that her father faces unusual health risks that may be exacerbated by the stress of her departure.

The primary hardship the applicant's father will face should the applicant depart the United States consists of emotional hardship. The AAO acknowledges that the separation of family members typically involves

significant psychological consequences, and that the applicant's father would endure emotional hardship if the applicant's waiver application is denied. Yet, the applicant has not established that such consequences rise to the level of extreme hardship, based on the evidence of record.

The applicant's father came to the United States as a refugee due to persecution that he suffered in Ethiopia. However, the applicant has not provided sufficient evidence to show that she would be targeted by the government of Ethiopia due to her father's or her prior actions and experiences. The applicant stated that she was a member of a political party in Ethiopia, yet she left the country in 1990 at approximately age 18. The record contains no documentation or detailed explanation to show that she was at risk of harm there, or that any such risk continues to the present time 17 years after her departure. *Statement from Applicant*. The AAO acknowledges that the applicant's father's past experiences in Ethiopia would result in distress over the prospect of the applicant returning there, yet the applicant has not shown that she at risk of imminent harm in Ethiopia. It is noted that the applicant has not provided documentation in connection with her father's prior asylum proceedings, thus the AAO is unable to review the associated evidence to assess what, if any, impact it may have on the present matter.

The AAO has carefully reviewed the psychological evaluation from [REDACTED] clearly explains that the applicant's father is enduring significant anxiety regarding the applicant's possible departure. However, [REDACTED] findings do not reflect that the applicant's father is at risk of imminent, severe emotional consequences should the present waiver application be denied. [REDACTED] ultimately concluded that the applicant's father "may suffer from depression in response to a loss," and that the applicant's departure "could likely send him into a downward spiral of depression." Thus, [REDACTED] does not express a clear opinion that the applicant's father will endure extreme emotional consequences. Further, the single evaluation is of limited use, as it was conducted for the purpose of this proceeding, and does not represent treatment for a mental health disorder. The applicant has provided no evidence that her father received or required follow-up evaluation from a mental health professional. While the evaluation is helpful in providing an understanding of the background and challenges of the applicant's father, it does not show that, should the applicant depart the United States, her father will suffer emotional consequences beyond those ordinarily experienced by families of those who are deported.

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.

It is noted that, as the applicant's father has six other children in the United States, one of whom he resided with for 10 years, he will continue to have emotional support in the applicant's absence.

Based on the foregoing, the applicant has not shown that her father will experience extreme hardship should her waiver application be denied, and should he remain in the United States.

The record contains differing indications of whether the applicant's father would attempt to return to Ethiopia with the applicant if the present waiver application is denied. Counsel stated that the applicant's father's return to Ethiopia is "out of the question." Yet, ██████████ reported that the applicant's father stated that if the applicant is forced to return to Ethiopia, he will return also and surrender to the government to save her life. As the applicant's father was granted asylee status in the United States, it is understood that he may face related difficulty should he return to Ethiopia. However, as a U.S. citizen, he is not required to depart the United States as a result of the applicant's inadmissibility.

Pursuant to section 212(i)(1) of the Act, in order to establish eligibility for a waiver, an applicant must show that denial of the application "*would* result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien." Section 212(i)(1) of the Act (emphasis added). Accordingly, the applicant must show that all of her father's options constitute extreme hardship. If the applicant's father would experience extreme hardship if he relocated abroad, yet he would not experience extreme hardship if he remained in the United States, the applicant would have failed to show that denial of her application "would result in extreme hardship." In such circumstances, should the applicant's father relocate abroad, it would be his choice to endure greater hardship. Thus, in adjudicating an application for a waiver under section 212(i)(1) of the Act, Citizenship and Immigration Services (CIS) must consider all hardships to qualifying relatives relating to relocating abroad and remaining in the United States. As the applicant has not shown that remaining in the United States constitutes extreme hardship for her father, she has not established that denial of her waiver application "would result in extreme hardship," as required by section 212(i)(1) of the Act.

Accordingly, the applicant has not established that the instances of hardship that will be experienced by her father, should the applicant be prohibited from remaining in the United States, considered in aggregate, rise to the level of extreme hardship as contemplated by section 212(i)(1) of the Act. 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(i) 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.