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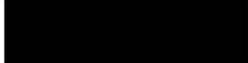


U.S. Citizenship
and Immigration
Services

H₂



FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **APR 29 200**

IN RE:

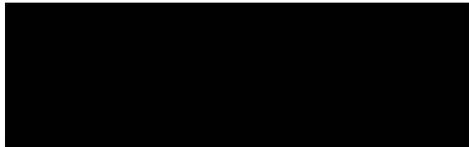
Applicant:



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 Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Nigeria 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 his U.S. citizen wife.

The 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 Director*, dated February 16, 2006.

On appeal, counsel for the applicant contends that the director failed to give proper weight to the evidence of record, and that the applicant warrants a favorable exercise of discretion. *Statement from Counsel on Form I-290B*, dated March 9, 2006.

The record contains a statement from counsel on Form I-290B; statements from the applicant and his wife; a copy of a health insurance card for the applicant and his wife; copies of tax documents for the applicant and his wife; copies of birth certificates for the applicant and his wife, and; a copy of the applicant's marriage certificate.

It is noted that counsel indicated on Form I-290B that he would send a brief and/or evidence to the AAO within 30 days of filing the appeal. The appeal was filed on March 13, 2006. However, as of February 26, 2008, the AAO had received no further documentation or correspondence from the applicant or counsel. On February 26, 2008, the AAO attempted to send a facsimile to counsel, yet was unable to transmit to the number provided. On March 24, 2008, the AAO mailed a letter to counsel with notice that a brief or additional evidence had not been received, and affording five days in which to provide a copy of any missing filing. As of the date of this decision, the AAO has not received a response to the letter, and the record is deemed complete.

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 December 18, 1992 the applicant entered the United States using a passport that belonged to another individual. Thus, the applicant entered the United States by fraud and misrepresenting his identity. 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 alien himself experiences upon deportation is not a direct concern in proceedings under section 212(i) of the Act; the only relevant hardship in the present case is hardship suffered by the applicant's wife. 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 stated that he loves his wife and he has been in love with her since 1995. *Statement from the Applicant*, dated April 27, 1999. The applicant's wife explained that she and the applicant share an "easy respect" for each other and that the applicant has a good relationship with her daughters. *Statement from the Applicant's Wife*, dated June 11, 1999. The applicant's wife provided that she is a baker and has no retirement program or house. *Id.* at 1. She stated that she only speaks English, and that all of her children are based in Rhode Island. *Id.* She indicated that she receives treatment once monthly for high blood

pressure, and routine mammograms as a preventive measure due to her prior experience with cancer. *Id.* She explained that she has health insurance through the applicant's employment, and she is an 80 percent beneficiary on his life insurance. *Id.*

Upon review, the applicant has not established that his wife will experience extreme hardship if he is prohibited from remaining in the United States. The applicant's wife reports that she receives treatment for high blood pressure and routine mammograms, and that she relies on the applicant for health insurance. However, the applicant has not submitted medical records for his wife to establish the nature and frequency of medical services she requires. The applicant's wife indicated that she previously had cancer, yet the applicant has not submitted any explanation or documentation to reflect his wife's past medical care, or the effect her previous health problems have on her current needs. Further, the applicant has not shown that his wife does not have access to medical insurance without his assistance.

The applicant has not provided an accounting of his and his wife's regular household expenses, thus the AAO is unable to determine the effect the loss of the applicant's income would have on his wife. While the applicant's wife stated that she is a beneficiary on the applicant's life insurance, the applicant has not shown that this fact has a bearing on his wife's hardship should the applicant depart the United States.

The applicant's wife suggested that she would experience emotional hardship should she be separated from the applicant. The AAO recognizes that the applicant's wife may endure hardship as a result of separation from the applicant should she remain in the United States. However, her situation is typical to individuals separated as a result of deportation or exclusion, and the applicant has not shown that it rises to the level of extreme 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 (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 applicant's wife explained that she doesn't speak languages other than English. Thus, she suggests she would experience difficulty relocating abroad with the applicant. However, the applicant is a native of Nigeria, where English is widely spoken. The applicant's wife indicated that her adult children are based in Rhode Island, yet the applicant has not shown that this fact would elevate his wife's hardship above that which would ordinarily be expected should she relocate abroad. *See Hassan v. INS*, 927 F.2d at 468. The applicant has not stated any other factors that may cause hardship to his wife should she relocate abroad to maintain family unity.

Accordingly, the applicant has not shown that his wife would experience extreme hardship should she remain in the United States without him, or should she relocate abroad. Based on the foregoing, the applicant has not established that the instances of hardship that will be experienced by his wife should he be prohibited

from remaining in the United States, considered in aggregate, rise to the level of extreme hardship. 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.