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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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#2

[REDACTED]

FILE:

[REDACTED]

Office: ACCRA, GHANA

Date:

JUN 02 2008

(ACC2003775008)

IN RE:

[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 PETITIONER:

SELF-REPRESENTED

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Acting Officer-in-Charge, Accra, Ghana, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Ghana. 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), for having sought to procure an immigration benefit through fraud or misrepresentation of a material fact. 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 section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States and reside with her spouse.

The officer-in-charge concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the application accordingly. *See Decision of Acting Officer-in-Charge* dated June 11, 2005.

On appeal, the applicant asserts that denial of the waiver would result in extreme hardship to her U.S. Citizen husband and requests that she be allowed to join her husband in the United States, which would also benefit their U.S. Citizen daughter and allow her to be raised in the United States. The applicant states that she apologizes for her willful misrepresentation concerning her identity. She further explains that she did not previously submit a statement concerning the matter because she was not aware she should submit a written statement concerning her past misrepresentation, which involved the submission of a passport and birth certificates in which her name and date of birth were altered.

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 [Secretary] may, in the discretion of the [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 [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.

Section 212(i) of the Act provides that a waiver of the bar to admission resulting from section 212(a)(6)(C)(i) of the Act is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member. 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).

In *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560 (BIA 1999), the Board of Immigration Appeals (BIA) provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship. These 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.

U.S. court decisions have additionally 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, 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 addition, in *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), the court 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. In *Hassan v. INS*, *supra*, the court further held 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. Moreover, the U.S. Supreme Court additionally 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.

The record reflects that the applicant is a thirty-four year-old native and citizen of Ghana. She is married to a U.S. Citizen and they have a daughter who was born in Ghana on May 13, 2005. The applicant previously applied for an immigrant visa on February 1, 2001 based on an approved Petition for Alien Relative filed by an individual claiming to be the applicant's father. In connection with this application, the applicant submitted a birth certificate with a name and date of birth that were altered so that they would match information listed on the petitioner's citizenship application. A DNA test performed on February 26, 2002 indicated that the petitioner was not the applicant's father, and the immigrant visa application was later denied. On November 5, 2002, the applicant's husband, a native and citizen of the United States, submitted a Petition for Alien Relative, which was approved on September 22, 2003. The applicant currently resides in Kokomlemle, Accra, Ghana with her daughter, who was born on May 13, 2005.

The applicant requests that her waiver be granted so that she and her daughter can reside in the United States with her husband. In support of the appeal the applicant submitted a statement describing in detail the reasons why she obtained passports and birth certificates under different names and dates of birth that also contained different names for her mother. The letter further states that the applicant believed the petitioner who filed the first petition for her was her true father and that she was raised by his mother. See letter from [REDACTED] dated June 25, 2005. The record also contains a statement from the applicant's husband describing his studies in Ghana, his current work as a teacher in the United States, and the financial cost of traveling to and from Ghana to visit the applicant. He further states that he plans to pursue a doctorate in ethnomusicology, but that he must start preparing financially for his future studies, and his "wife's absence

from [their] home here in the United States is and will be a set back (sic) to the kind of education [he dreams] to aspire.” See letter from [REDACTED] dated March 6, 2005. The applicant’s husband further states that he is not willing to allow his wife to bring up their children alone and that their children should not be raised by a single parent through no fault of theirs. He further states that his closest relatives are in the United States and his aged relatives would benefit if he and the applicant reside in the United States. He states that he loves his wife and needs her in the United States with him and that he has been “greatly troubled over this situation.” See letter from [REDACTED] dated March 6, 2005.

The applicant’s husband states that he loves the applicant and that being separated from her has resulted in emotional and economic hardship. There is no evidence on the record, however, to establish that the emotional effects of being separated from the applicant are more serious than the type of hardship a family member would normally suffer when faced with his spouse’s deportation or exclusion. Although the depth of his distress over the prospect of being separated from his spouse is not in question, a waiver of inadmissibility is only available where the resulting hardship would be unusual or beyond that which would normally be expected upon deportation or exclusion. The prospect of separation or involuntary relocation nearly always results in considerable hardship to individuals and families. But in specifically limiting the availability of a waiver of inadmissibility to cases of “*extreme hardship*,” Congress did not intend that a waiver be granted in every case where a qualifying relationship, and thus the familial and emotional bonds, exists. The emotional hardship the applicant’s husband claims he is suffering appears to be the type of hardship normally to be expected when a family member is excluded or deported. See *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996) (holding that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship).

The applicant’s husband states that the effects of their continued separation on his financial situation also amount to extreme hardship because he must use his savings to travel to and from Ghana and cannot prepare financially to pursue an advanced degree in ethnomusicology. He did not submit any documentation concerning his salary, savings, or expenses to support an assertion that separation from his wife is causing financial hardship. There is no indication that there are any unusual circumstances that would cause financial hardship beyond what would normally be expected as a result of the applicant’s exclusion. The cost of traveling to see his wife in Ghana therefore appears to be a common result of exclusion or deportation, and would not rise to the level of extreme hardship for the applicant’s husband. See *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), *supra* (holding that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship).

The applicant’s husband also states that he could not relocate to Ghana because he and his wife decided to make the United States their home and that it would be of benefit to his relatives if they reside in the United States. The applicant did not submit any further information or evidence concerning the effects of relocating to Ghana on her husband, and there is insufficient evidence on the record to establish that relocating to Ghana would result in extreme hardship to the applicant’s husband.

The emotional and financial difficulties that the applicant’s husband would suffer appear to be the type of hardships that family members would normally suffer as a result of deportation or exclusion. U.S. court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove

extreme hardship. *See Perez v. INS*, 96 F.3d 390 (9th Cir. 1996) (defining “extreme hardship” as hardship that was unusual or beyond that which would normally be expected upon deportation); *Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991); *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996) (holding that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship).

In this case, the record does not contain sufficient evidence to show that the hardships faced by the qualifying relative, considered in the aggregate, rise beyond the common results of removal or inadmissibility to the level of extreme hardship. The AAO therefore finds that the applicant has failed to establish extreme hardship to his U.S. citizen spouse as required under section 212(i) of the Act.

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. 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.