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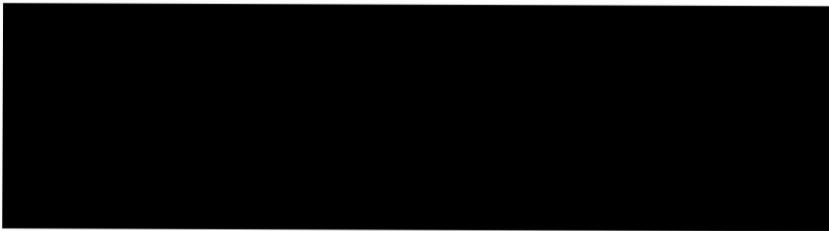
IN RE: Applicant:



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 Acting District Director, Philadelphia, Pennsylvania, 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. The record reveals that the applicant entered the United States using a passport and a United States visa containing an assumed name. 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), for having procured entry into the United States by fraud or willful misrepresentation. The applicant is married to a U.S. citizen and 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.

The acting district director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Form I-601 accordingly. *Decision of the Acting District Director*, dated August 22, 2006.

In support of the appeal, counsel submits a properly signed Form G-28, Notice of Entry; a brief, dated January 17, 2008; a report clarification letter from [REDACTED], M.S.W., Psy.D., dated October 10, 2006; and information about medical conditions in Nigeria. 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.

Based on the evidence in the record, the applicant is inadmissible pursuant to section 212(a)(6)(C)(i) of the Act.

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 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...

Matter of Cervantes-Gonzalez, 22 I&N Dec. 560, 565-566 (BIA 1999) provides a list of factors the Board of Immigration Appeals deems relevant in determining whether an alien has established extreme hardship. 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.

Counsel contends that the applicant's spouse will suffer physical, emotional and psychological hardship if the applicant is removed from the United States. To support counsel's contention, a psychological evaluation is provided by [redacted] Social Worker and Psychologist, based on an interview he conducted with the applicant and her spouse on December 5, 2005. In said evaluation, [redacted] states the following:

...Mr. [redacted] [the applicant's spouse] suffers from bipolar disorder, a genetically-based and life-long chronic illness that will take ongoing treatment and monitoring. Mr. [redacted] clearly lacks good judgment when it comes to self-care and some of the aspects of his life...For example, he is dangerously overweight, but does not appear overly concerned about it. He also chose to go without health insurance and is instead using the money to supplement his gambling habit. He has not followed through with dental care....

If Mr. [redacted] chooses to separate from Ms. [redacted] [the applicant] if she is deported to Nigeria, he will face a host of...difficulties. Naturally, he will be faced with the emotional devastation related to the loss of his wife. In addition, it is clear that Ms. [redacted] plays an important role in protecting Mr. [redacted]'s health and wellbeing. Without her involvement, I believe that the probability that Mr. [redacted] will address these significant health and psychiatric concerns is low....

Psychological Hardship Evaluation from [redacted] M.S.W., Psy.D., dated January 4, 2006.

An evaluation provided by a psychologist based on a one-time interview does not reflect the insight and elaboration commensurate with an established relationship with a mental health professional, thereby rendering the psychologist's findings speculative and diminishing the evaluation's value to a determination of extreme hardship. Moreover, although the psychologist has determined, based on a one-time interview, that the applicant's spouse is bipolar and a pathological gambler, the record does not contain collaborative evidence to establish that the applicant's spouse has obtained proper care and treatment for these disorders since the time he was first evaluated by [redacted] in December 2005. In fact, in a report clarification letter provided by [redacted], dated October 10, 2006, no reference is made to any type of follow-up visits between [redacted] and the applicant's spouse, nor does [redacted] note that the applicant's spouse is currently being treated for his mental conditions. Finally, it has not been established that the applicant's spouse's situation is extreme as he is able to maintain long-term, full-time employment as a bus driver, as documented by a letter

provided by his employer confirming the applicant's spouse's full-time employment with the employing entity since June 1999. See Letter from [REDACTED] District Manager, Greyhound Lines, Inc., dated February 19, 2004.

Even though the applicant's spouse has been aware of his serious medical and mental health conditions since December 2005, when he met with [REDACTED] the record does not indicate that he has taken any steps to treat his disorders. The brief and additional documentation submitted in January 2008 contained nothing regarding the applicant's spouse's mental health beyond [REDACTED]'s October 2006 letter. As such, despite [REDACTED] conclusions to the contrary, even with the applicant currently residing in the United States, the applicant's spouse still has not obtained proper medical and mental treatment to deal with his serious medical conditions, which were diagnosed over two and a half years ago. Therefore, it can not be established that were the applicant to relocate abroad and be physically absent from her spouse's life, her spouse's condition would worsen to a point that would cause him extreme hardship.

Although the depth of concern and anxiety over the applicant's immigration status is neither doubted or minimized, the fact remains that Congress provided for a waiver of inadmissibility only under limited circumstances. In nearly every qualifying relationship, whether between husband and wife or parent and child, there is a deep level of affection and a certain amount of emotional and social interdependence. While, in common parlance, the prospect of separation or involuntary relocation nearly always results in considerable hardship to individuals and families, 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, exist. The current state of the law, viewed from a legislative, administrative, or judicial point of view, requires that the hardship, which meets the standard in INA § 212(i), be above and beyond the normal, expected hardship involved in such cases. U.S. court decisions have repeatedly held that the common results of removal are insufficient to prove extreme hardship. See *Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991), *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996); *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); *Matter of Shaughnessy*, 12 I&N Dec. 810 (BIA 1968) (holding that separation of family members and financial difficulties alone do not establish extreme hardship). "[O]nly in cases of great actual or prospective injury . . . will the bar be removed." *Matter of Ngai*, 19 I&N Dec. 245, 246 (BIA 1984).

In the alternative, counsel asserts that the applicant's spouse will suffer extreme hardship were he to accompany the applicant to Nigeria, as he will not have access to high-level health assistance to deal with the medical and mental conditions outlined in [REDACTED]'s above-referenced evaluation. As noted above, since the time the applicant's spouse first learned of his serious medical and mental conditions, in his meeting with Dr. [REDACTED] in December 2005, it has not been documented that he has sought treatment for his conditions, nor has any evidence been provided from a treating physician outlining the applicant's spouse's current health situation, its short and long-term treatment plans, the gravity of the situation and what effect, if any, a relocation abroad would have on the applicant's spouse. As such, despite the lower standards of medical care in Nigeria, as documented by counsel, it has not been established that the applicant's spouse would suffer extreme medical hardship were he to relocate abroad, as he does not appear to be dependent on any sort of treatment at this time.

The record, reviewed in its entirety and in light of the *Cervantes-Gonzalez* factors, cited above, does not support a finding that the applicant's spouse will face extreme hardship if the applicant is removed. 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. There is no documentation establishing that his hardship would be 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 hardship he would face rise to the level of "extreme" as contemplated by statute and case law.

Having found the applicant statutorily 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 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. The waiver application is denied.