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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship and Immigration Services

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[REDACTED]

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FILE: [REDACTED] Office: PHILADELPHIA, PA Date: JUL 09 2009

IN RE: [REDACTED]

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

ON BEHALF OF PETITIONER:

[REDACTED]

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, Philadelphia, Pennsylvania, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant is a 33-year-old native and citizen of Ghana who was found to be inadmissible to the United States pursuant to 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 admission to the United State through fraud or misrepresentation. 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 under section 212(i) of the Act in order to reside in the United States with her husband.

The District Director concluded that the applicant failed to establish extreme hardship to a qualifying relative, and denied the application. *See Decision of the District Director*, dated Jul. 28, 2005. On appeal, the applicant, through counsel, contends that her husband would suffer extreme medical, financial, and emotional hardship if she is denied a waiver. *See Form I-290B, Notice of Appeal*, dated Aug. 25, 2005.

The record contains, *inter alia*, a copy of the couple's marriage certificate, indicating that they were married on February 28, 2004, in Pennsylvania; a sworn statement from the applicant's husband, dated July 26, 2005; a letter from the applicant's husband stating that he is self-employed as a taxi driver; a statement from the applicant; a copy of a medical prescription; a mortgage statement; copies of various bills, a letter from a doctor to the applicant, dated July 7, 2005; tax returns for the years 2001 – 2003; and various letters to the applicant. Although the petitioner indicated that she would file a brief and/or additional evidence with the AAO within 30 days of filing the appeal, as of this date, the record contain no additional evidence. Therefore, the record is considered complete, and the AAO shall render a decision on appeal based on the existing record.

Section 212(a)(6)(C) of the Act provides, in pertinent part:

Misrepresentation

(i) In general

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 chapter is inadmissible.

8 U.S.C. § 1182(a)(6)(C)(i). The applicant concedes that she entered the United States on March 8, 2002, using a passport with a U.S. visa that belonged to another person. *See Statement of [REDACTED]; Form I-601, Application for Waiver of Ground of Excludability*, filed July 28, 2004; *Decision of the District Director, supra* at 1. Accordingly, the applicant is inadmissible under section 212(a)(6)(C) of the Act for procuring admission into the United States by fraud or willful misrepresentation.

An applicant who is inadmissible under section 212(a)(6)(C)(i) of the Act may apply for a waiver of this ground of inadmissibility under section 212(i) of the Act, which provides:

- (1) The [Secretary] may, in the discretion of the [Secretary], waive the application of clause (i) of subsection (a)(6)(C) of this section 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 [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 . . .

8 U.S.C. § 1182(i). In order to obtain a section 212(i) waiver, an applicant must show that the ten-year bar imposes an extreme hardship on the applicant's U.S. citizen or lawfully resident spouse or parent. *See id.* Hardship to the applicant, or to his or her children or other family members, may not be considered, except to the extent that this hardship affects the applicant's qualifying relative. *See id.* (omitting consideration of hardship to the applicant and to his or her children). Additionally, extreme hardship to the qualifying relative must be established in the event that he or she accompanies the applicant to the home country, and in the event that he or she remains in the United States.

The concept of extreme hardship "is not . . . fixed and inflexible," and the determination is based on an examination of the facts of each individual case. *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565 (BIA 1999). In *Matter of Cervantes-Gonzalez*, the Board of Immigration Appeals (BIA) set forth a non-exhaustive list of factors relevant to determining whether an alien has established extreme hardship to a qualifying relative. These factors include: the presence of family ties to U.S. citizens or lawful permanent residents in the United States; family ties outside the United States; country conditions where the qualifying relative would relocate and family ties in that country; the financial impact of departure; and significant health conditions, particularly where there is diminished availability of medical care in the country to which the qualifying relative would relocate. *Id.* at 566. Family separation is also an important calculation in the extreme hardship analysis. *See, e.g., Salcido-Salcido v. INS*, 138 F.3d 1292, 1293 (9th Cir. 1998) (per curiam) ("When the BIA fails to give considerable, if not predominant, weight to the hardship that will result from family separation, it has abused its discretion."); *Matter of Lopez-Monzon*, 17 I&N Dec. 280 (Commr. 1979) (noting in the context of a waiver under section 212(i) of the INA that the intent of the waiver is to provide for the unification of families and to avoid the hardship of separation).

Additionally,

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, e.g., economic detriment due to loss of a job or efforts ordinarily required in relocating or adjusting to life in the native

country. Such ordinary hardships, while not alone sufficient to constitute extreme hardship, are considered in the assessment of aggregate hardship.

*Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996) (internal quotation marks and citation omitted). However, “[t]he common results of deportation or exclusion are insufficient to prove extreme hardship.” *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 mere economic detriment and emotional hardship caused by severing family and community ties are common results of deportation and do not constitute extreme hardship. In *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), the Ninth Circuit held that economic hardship and adjustment difficulties did not constitute hardship that was unusual or beyond that which would normally be expected upon deportation. In *Matter of Shaughnessy*, 12 I&N Dec. 810 (BIA 1968), the BIA held that separation of family members and financial difficulties alone do not establish extreme hardship unless combined with more extreme impact. In *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), the U.S. Supreme Court held 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 and her husband, 38-year-old [REDACTED] a native of Ghana and citizen of the United States, have been married for five years. See *Marriage Certificate; Certificate of Naturalization for [REDACTED]*. The applicant asserts that her husband will suffer extreme medical, financial, and emotional hardship if the waiver is denied. See *Form I-290B, Notice of Appeal, supra; Sworn Statement of [REDACTED], supra*.

In support of the medical hardship claim, the applicant contends that the District Director erred “in denying the 212(h) [sic] waiver because the petitioner cannot receive proper medical care for his hip injury in Ghana and going there will result in his condition worsening.” *Form I-290B, Notice of Appeal, supra*. The applicant also claims that her husband “has medical coverage and benefits [and] has physicians and is receiving treatment for his hip and will not be able to receive anything in Ghana if he is forced to relocate there with his wife.” *Id.* The applicant’s husband states that his leg and hip were injured in a motorcycle accident in Ghana, resulting in surgery and the placement of a steel rod in his right leg. See *Sworn Statement of [REDACTED], supra*. The applicant helps Mr. [REDACTED] with rehabilitation by “remind[ing him] to do [his] exercises and help[ing him] keep count of the different exercises that [he does] at home.” *Id.* However, the applicant has not provided any documentation, such as medical or surgical records, evidence regarding the availability of medical care in Ghana, proof of medical coverage in the United States, or evidence regarding [REDACTED] medical prognosis, to support the allegations of medical hardship. Going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. See *Matter of Soffici*, 22 I&N Dec. 158, 165 (Commr. 1998).

The applicant’s husband also claims that he and his wife hope to have a child, and that they have been working with an infertility doctor who “gave [the applicant] a prescription that will help her to become pregnant.” *Sworn Statement of [REDACTED], supra*. The record contains a copy of a prescription for prenatal vitamins, see *Medical Prescription for Primacare One Softgels*, and a letter from the applicant’s gynecologist noting that her Pap Smear was normal, see *Letter from Dr. [REDACTED]* dated July 7, 2005. Because there is no evidence in the record to support the

claim of infertility or the couple's attempts to start a family, this allegation of medical hardship is insufficient. *See Matter of Soffici*, 22 I&N Dec. at 165.

In support of the financial hardship claim, [REDACTED] states that he owns a taxicab and a medallion, which is now worth over \$90,000.00. *See Sworn Statement of [REDACTED]*, *supra*; *see also IRS Forms 1040* (corroborating employment as a taxicab driver). [REDACTED] also states that he purchased a home with his father in Pennsylvania, which is now worth over \$150,000.00. *See Sworn Statement of [REDACTED]* *supra*; *see also Mortgage Statement*. [REDACTED] claims that the "taxi business allows [him] to earn enough money to live and support [him]self and [his] wife and to pay [the] mortgage on [his] home and other expenses." *Sworn Statement of [REDACTED]* *supra*. [REDACTED] contends that he could not afford to live in Ghana, and that if he relocated, he "could not get a job that would make enough money for [him] to keep [his] home and [his] business here." *Id.* The applicant also contends, without support, that relocation would cause extreme hardship because he "has no family or support whatsoever in Ghana and will become a street person without support and complete lack of care." *Form I-290B, Notice of Appeal, supra*. Although the evidence suggests that the applicant's husband could suffer financial losses if he relocated to Ghana, the record does not contain any evidence regarding economic conditions or employment opportunities in Ghana. Moreover, there is no evidence in the record regarding the applicant's income and her financial contributions to the household. Accordingly, the record does not support a finding of extreme financial hardship based on relocation to Ghana or family separation. *See Matter of Soffici*, 22 I&N Dec. at 165.

Finally, the applicant's husband indicates that the denial of the waiver would cause emotional hardship. *See Sworn Statement of [REDACTED]* *supra*. The applicant and her husband met in 2003, and they married in February, 2004. *See id*; *see also Marriage Certificate*. [REDACTED] states that they "live together and share [their] lives constantly," and they "want to have children and grow old together." *Sworn Statement of [REDACTED]*, *supra*. Here, the applicant has not provided any evidence that the emotional hardship caused by the severing of family ties would be unusual or beyond that which would normally be expected upon removal. *See Perez*, 96 F.3d at 392; *Matter of Pilch*, 21 I&N Dec. at 631. Although the distress caused by separation from one's family is not in question, a waiver of inadmissibility is only available where the resulting hardship would be extreme. *See id.*

In sum, the record does not contain sufficient evidence to show that the hardships faced by the applicant's husband, 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 her U.S. citizen spouse as required under section 212(i) of the Act. In proceedings for an application for a waiver of the grounds of inadmissibility, 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.