

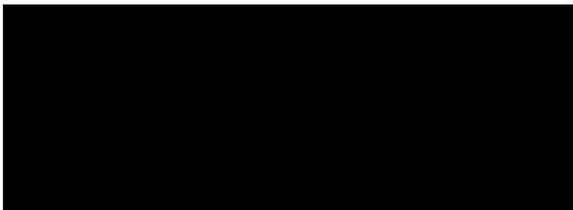
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U.S. Department of Homeland Security
20 Massachusetts Ave. N.W., Rm. 3000
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

RUBLIC COPY



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FILE: [REDACTED]

Office: MEXICO CITY

Date:

MAR 03 2009

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.

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 or reopen, 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, Mexico City, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Guyana 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.

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 November 20, 2006.

On appeal, counsel for the applicant contends that the applicant's mother and father will suffer extreme hardship if the applicant is prohibited from entering the United States. *Brief from Counsel*, submitted January 8, 2007.

The record contains a brief from counsel in support of the appeal; statements from the applicant's mother and father; copies of the applicant's parents' naturalization certificates; medical documentation for the applicant's parents; copies of the applicant's children's birth certificates; documentation in connection with the applicant's application for a visa; a birth record for the applicant; a copy of the applicant's marriage certificate; and documentation in connection with the applicant's prior expedited removal from the United States. 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 October 25, 2000 the applicant attempted to enter the United States using a fraudulent passport and Form I-551 permanent resident card. Accordingly, the applicant was found to be inadmissible under section 212(a)(6)(C)(i) of the Act for seeking to procure admission into the United States by fraud or willful misrepresentation. 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 applicant experiences upon deportation is not a basis for a waiver under section 212(i) of the Act; the only relevant hardship in the present case is hardship suffered by the applicant's mother or 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 Board 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).

On appeal, counsel contends that the applicant's mother and father will suffer extreme hardship if the applicant is prohibited from entering the United States. *Brief from Counsel* at 1. Counsel states that the applicant's mother and father are in their mid-fifties and in poor health with malignant hypertension and hyperthyroidism. *Id.* He indicates that the applicant's parents have two children in the United States, yet they have a distant relationship and do not provide support and care. *Id.* Counsel asserts that the applicant is the applicant's parents' only opportunity for long-term care and love, as the applicant has promised to live with them and take good care of them. *Id.*

The applicant's mother indicated that she is 56-years-old and she requires constant medical treatment for serious hypertension. *Statement from the Applicant's Mother*, dated December 18, 2006. She stated that her two permanent resident children in the United States do not take care of her and the applicant's father, thus they are relying on the applicant to care for them. *Id.* at 1. She explained that she and the applicant's father have considered returning to Guyana, but that they have resided in the United States for a lengthy period and they are deeply rooted here. *Id.* She noted that Guyana is experiencing social unrest which further dissuades her from returning there. *Id.* In a prior statement the applicant's mother provided that the applicant will make a financial contribution to

their home. *Prior Statement from the Applicant's Mother*, dated December 9, 2005. She stated that she has only been able to secure employment for two days per week. *Id.* at 1. She cited poor conditions in Guyana, including poor medical care and a high crime rate. *Id.*

The applicant's father stated that he and the applicant's mother have health problems, and that he has hyperthyroidism and hypertension. *Statement from the Applicant's Father*, dated December 18, 2006. He indicated that he and the applicant's mother each take medication and need support from family members. *Id.* at 1. He explained that his two children in the United States do not take good care of him and the applicant's mother, thus they must care for each other. *Id.* He stated that the applicant is the most caring of their three children and that he and the applicant's mother will rely on him. *Id.* He provided that he and the applicant's mother considered returning to Guyana but are rooted in the United States and do not wish to endure conditions in Guyana. *Id.*

The applicant submitted a statement from her mother's physician who noted that he treats the applicant's mother for malignant hypertension. *Statement from* [REDACTED], dated December 13, 2006.

The applicant submitted a statement from her father's physician who noted that he treats the applicant's father for hyperthyroidism, hypertension, and hypercholesterolemia. *Statement from* [REDACTED], dated December 15, 2006.

Upon review, the applicant has not established that a qualifying relative will experience extreme hardship if he is prohibited from entering the United States. Counsel contends that the applicant's parents have medical conditions, and that they require the applicant's assistance. Yet, while the applicant submitted letters regarding his parents' health, the letters are brief and do not clearly describe whether the applicant's parents need assistance other than routine medical care. The letters do not address the applicant's parents' capacity to perform daily activities. The applicant's mother indicated that she works part-time, which suggests she is able to engage in independent tasks. The applicant's mother and father each stated that they care for each other. They did not specifically describe any need they have that is currently not met, such that they would benefit from the applicant's presence in the United States. Accordingly, the applicant has not established that his parents would suffer identifiable health consequences should he be prohibited from entering the United States and they remain.

The applicant's mother indicated that the applicant would work and contribute financially to their household should he relocate to the United States. However, the applicant has not provided any documentation to show his parents' income, assets, or regular expenses. Nor does the record contain evidence that the applicant would secure employment in the United States. Thus, the AAO lacks adequate documentation to assess the economic impact the applicant's presence would have for his parents.

The applicant's parents suggest that they are experiencing emotional consequences due to separation from the applicant. Yet, the applicant has not distinguished any emotional hardship they are experiencing from that which would ordinarily be expected when a family is separated due to inadmissibility. U.S. court decisions have 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.

Based on the foregoing, the applicant has not shown by a preponderance of the evidence that his parents would experience extreme hardship should he be prohibited from entering the United States and they remain.

The applicant has not shown that his parents would experience extreme hardship should they return to Guyana to maintain family unity. While the applicant’s parents generally referenced poor conditions in Guyana, the applicant has not provided any documentation to support their assertions or to otherwise show that they would endure harsh conditions should they relocate. The applicant’s parents have resided in the United States for a lengthy period, yet the applicant has not submitted evidence to clearly show their ties to the country, such as evidence of their employment, property ownership, civic activities, or friends and family. As the applicant’s parents are natives of Guyana, it is evident that they would not endure the challenge of adapting to an unfamiliar language or culture should they relocate there. Based on the foregoing, the applicant has not provided adequate evidence to show by a preponderance of the evidence that his parents would experience extreme hardship should they return to Guyana.

All elements of hardship to the applicant’s parents have been considered individually and in the aggregate. Based on the foregoing, the applicant has not provided sufficient documentation to show that his parents will experience extreme hardship, should they remain in the United States or relocate to Guyana to maintain family unity. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether he merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i)(1) 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.