

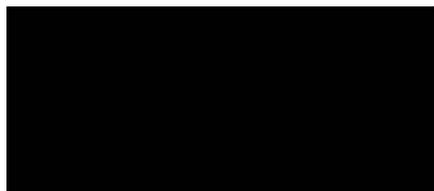
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services



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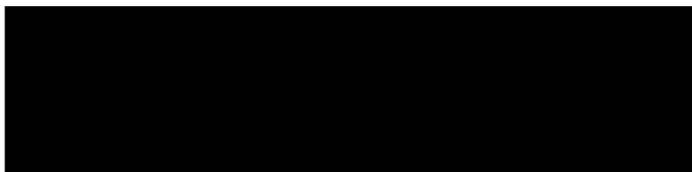
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IN RE:



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, Newark, New Jersey 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 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 having attempted to procure admission into the United States by fraud or willful misrepresentation. The applicant is married to a naturalized United States citizen and is the stepfather of two United States citizen children. He 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 his family.

The District Director concluded that the applicant had failed to establish that extreme hardship would be imposed upon a qualifying relative and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the District Director*, dated February 3, 2004.

On appeal, counsel for the applicant contends that United States Citizenship and Immigration Services (USCIS) erred in finding that the applicant had failed to establish extreme hardship to his qualifying relative, as necessary for a waiver under 212(i) of the Act. *Form I-290B*.

In support of the waiver, the record includes, but is not limited to, a statement by counsel; a statement from the applicant's spouse; telephone, cable, electric, and television service billing statements; W-2 Forms for the applicant's spouse; research publications; a psychological evaluation of the applicant's spouse; statements from family members and friends; a statement from the applicant's church; published country conditions reports; bank statements for the applicant and his spouse; a rent statement and lease agreement; earnings statements for the applicant's spouse; tax returns for the applicant's spouse; a church contribution receipt; past due account notices from 2002 and 2003; and an employment letter for the applicant's spouse. 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 June 17, 1997 the applicant attempted to procure admission into the United States by presenting a fraudulent British passport. *Form I-867A, Record of Sworn Statement*, dated June 17, 1997. Based on his presentation of a fraudulent document at the port of entry, the applicant is inadmissible under Section 212(a)(6)(C)(i) of the Immigration and Nationality Act.

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. The plain language of the statute indicates that hardship that the applicant or his stepchildren would experience if his waiver request is denied is not directly relevant to the determination as to whether the applicant is eligible for a waiver under section 212(i). The only relevant hardship in the present case is the hardship suffered by the applicant's spouse if the applicant is removed. If 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 family ties to 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.

The AAO notes that extreme hardship to the applicant's spouse must be established whether she resides in Ghana or the United States, as she is not required to reside outside the United States based on the denial of the applicant's waiver request. The AAO will consider the relevant factors in adjudication of this case.

If the applicant's spouse joins the applicant in Ghana, the applicant needs to establish that his spouse will suffer extreme hardship. The applicant's spouse was born in Jamaica. *Form G-325A, Biographic Information, for the applicant's spouse*. Both of her parents were born in Jamaica and live in the United States. *Id.* Counsel asserts that if the applicant's spouse were to live in Ghana, she and her children would be exposed to an unsafe environment and practices. *Attorney's statement*, dated October 17, 2003. He notes that women in Ghana continue to experience societal discrimination. *Id.* Counsel's assertion is supported by published documentation, which notes that women, especially in rural areas, remain subject to burdensome labor conditions and traditional male dominance. *Ghana, Country Reports on Human Rights Practices – 2002, U.S. Department of State*, dated March 31, 2003. While the AAO acknowledges this information, it also notes that the record indicates that women in urban centers and those with skills and training encounter little overt bias,

although they continue to face discrimination. *Id.* The AAO observes there is nothing in the record that indicates where the applicant would settle in Ghana and, therefore, what type of employment environment she would face upon relocation. Counsel further asserts that the current daily minimum wage in Ghana does not permit a single wage earner to support a family. *Attorney's statement*, dated October 17, 2003. Country condition documentation states that the daily minimum wage is about 89 cents at the present rate of exchange, a sum that does not permit a single wage earner to support a family. *Ghana, Country Reports on Human Rights Practices - 2002, U.S. Dept. of State*, dated March 31, 2003. While the record provides proof that the minimum wage in Ghana does not provide a living wage, there is nothing in the record to show that the applicant and his spouse would be limited to earning a minimum wage. The AAO notes that the applicant's spouse has two children from two previous relationships. *Birth certificates of children*. While one of her children does not have contact with his biological father, the other child sees her biological father twice a week. *Statement from the applicant's spouse*, dated October 6, 2003; *Psychological evaluation from [REDACTED]*, dated September 25, 2003. While the children of the applicant's spouse are not qualifying relatives for the purposes of this case, the AAO acknowledges the difficulties that may arise in relocating a child to another country. However, the AAO also notes that the record does not indicate that the biological fathers would oppose the relocation of their children. When looking at the aforementioned factors, the AAO does not find that the applicant has demonstrated extreme hardship to his spouse if she were to reside in Ghana.

If the applicant's spouse resides in the United States, the applicant needs to establish that his spouse will suffer extreme hardship. The parents of the applicant's spouse live in New Jersey. *Form G-325A, Biographic Information, for the applicant's spouse*. Although the record does not state the amount of time the applicant's spouse has resided in the United States, the AAO notes that she naturalized in 1997. *Naturalization certificate*. The applicant's spouse states that a separation from the applicant would cause her to suffer psychologically, emotionally, and financially. *Statement from the applicant's spouse*, dated October 6, 2003. According to a psychological evaluation, the applicant's spouse is suffering from a Major Depressive Disorder and she is exhibiting symptoms of overeating, difficulty focusing and concentrating, a significant diminution of sexual desire and a sleep disturbance. *Psychological evaluation from [REDACTED]*, dated September 25, 2003. A separation from the applicant would exacerbate her clinical depression. *Id.* The psychologist also notes that the applicant's children, particularly her son, would develop a separation anxiety disorder and possibly clinical depression if separated from the applicant. *Id.* Although the input of any mental health professional is respected and valuable, the AAO notes that the submitted letter is based on a single interview with the applicant's spouse. As the conclusions reached by the psychologist are based on a single interview, the AAO does not find them to reflect the insight and elaboration commensurate with an established relationship with a psychologist, thereby rendering them speculative and diminishing the evaluation's value to a determination of extreme hardship. The applicant's spouse states that she is the sole financial supporter of the family, as the applicant is unable to work absent legal status. *Statement from the applicant's spouse*, dated October 6, 2003. She further asserts that the applicant is the primary caretaker of her two children. *Id.* She notes that she does not have enough income to hire a babysitter to take care of her children while she is at work. *Id.*; *See also earnings statements and W-2 Forms for the applicant's spouse, and bill statements*. While the AAO acknowledges this assertion, it notes that the record does not include

sufficient documentary evidence to determine the applicant's spouse's financial situation, including the costs of childcare.

The AAO acknowledges the difficulties faced by the applicant's spouse. However, 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. Separation from a loved one is a normal result of the removal process. The AAO recognizes that the applicant's spouse will endure hardship as a result of her separation from the applicant. However, the record does not distinguish her situation, if she remains in the United States, from that of other individuals separated as a result of removal. Accordingly, it does not establish that the hardship experienced by the applicant's spouse would rise to the level of extreme hardship. When looking at the aforementioned factors, the AAO does not find that the applicant has demonstrated extreme hardship to his spouse if she were to reside in the United States.

However, as the record has failed to establish the existence of extreme hardship to the applicant's qualifying relative caused by the applicant's inadmissibility to the United States if she resides in the United States, the applicant is not eligible for a waiver of her inadmissibility under section 212(a)(6)(C) of the Act. 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(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.