



U.S. Citizenship
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[REDACTED]

FILE: [REDACTED] Office: PHILADELPHIA Date: NOV 05 2009

IN RE: Applicant: [REDACTED]

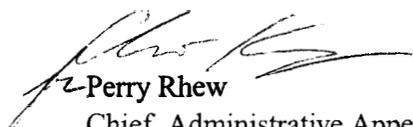
APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i).

ON BEHALF OF APPLICANT:
[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 or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).


Perry Rhew
Chief, Administrative Appeals Office

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

The applicant is a native and citizen of Grenada 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 with his U.S. citizen wife.

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 April 24, 2006.

On appeal, counsel for the applicant contends that the applicant was unaware that he was doing something wrong when he signed his former wife's signature to a Form I-751 petition to remove the conditions on his permanent residence. *Brief from Counsel*, dated December 3, 2005. Counsel asserts that the applicant had his former wife's permission to sign papers. *Id.* at 3. Counsel contends that the applicant's wife and child will suffer extreme hardship if the applicant is compelled to depart the United States. *Id.*

The record contains a brief from counsel in support of the appeal; reports on conditions in Grenada; documentation relating to the applicant's and his wife's purchase of a home in the United States; a copy of the applicant's birth certificate; a copy of the applicant's passport; documentation relating to the applicant's wife's employment; tax records for the applicant and his wife; a copy of the applicant's wife's birth certificate; a copy of the applicant's marriage certificate, and; brief statements from the applicant regarding his signing of his former wife's name. 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, in pertinent part, 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.

The record reflects that the applicant previously obtained conditional permanent resident status pursuant to his marriage to his former U.S. citizen wife. He testified that he and his former wife separated in May 1999, yet on June 7, 1999 he filed a Form I-751 petition to remove the conditions on his permanent residence. On part two of the Form I-751, the applicant indicated that he and his former wife were jointly filing the petition. The applicant signed his former wife's name on the Form I-751 petition and other submitted documents including a lease and tax returns. On June 6, 2000, the Immigration and Naturalization Service terminated his conditional permanent resident status, finding that he forged his former wife's signature in an effort to deceive the U.S. government and create the impression that he and his wife were still together. Accordingly, the applicant was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Act for seeking to procure a benefit provided under the Act by fraud or willful misrepresentation.

On appeal, counsel contends that the applicant was unaware that he was doing something wrong when he signed his former wife's signature to the Form I-751 joint petition to remove the conditions on his permanent residence. *Brief from Counsel* at 2-3. Counsel asserts that the applicant had his former wife's permission to sign papers. *Id.* at 3. The record contains two statements from the applicant regarding the fact that he signed his former wife's name. In each, he stated that someone prepared the documents and asked him to sign. *Statements from the Applicant*, dated November 18, 2002 and July 8, 2004. He did not claim that his former wife gave him permission to sign for her. *Id.*

Upon review, the applicant has not shown that he had his former wife's permission to jointly file the Form I-751 petition with her or to sign her name on the petition and related materials. The applicant has not provided any evidence, such as a statement from his former wife or himself, to support that she gave permission. Counsel's assertion that the applicant had permission is not persuasive. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the applicant's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The applicant was not eligible to remove the conditions on his permanent residence due to the fact that he and his former wife had separated and he did not seek a waiver of the joint-filing requirement under section 216(c)(4) of the Act. His forgery of his former wife's signature misrepresented this material fact. Thus, the record shows by a preponderance of the evidence that the applicant was properly found inadmissible to the United States under section 212(a)(6)(C)(i) of the 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. 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 wife. 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 wife and child will suffer extreme hardship if the applicant is compelled to depart the United States. *Brief from Counsel* at 3. Counsel states that the applicant's wife will suffer hardship should she relocate to Grenada, as she was born in the United States and she does not have any ties in Grenada. *Id.* Counsel provides that the applicant's wife and daughter will endure economic hardship in Grenada. *Id.* Counsel states that Grenada incurred recent hurricane damage, and that the applicant's hometown and house there were damaged. *Id.*

Counsel asserts that medical care is inadequate in Grenada, which would affect the applicant's wife. *Id.* at 4.

Counsel indicates the applicant and the applicant's wife are purchasing their home in the United States, and that the applicant's absence would create economic hardship for his wife as a result. *Statement from Counsel on Form I-290B*, dated May 19, 2006.

Upon review, the applicant has not established that a qualifying relative will experience extreme hardship if he is prohibited from remaining in the United States. The record contains references to hardship the applicant's daughter will experience if she relocates to Grenada. However, as noted above, direct hardship to the applicant's daughter is not a basis for a waiver under section 212(i) of the Act. The applicant has not identified the household in which his daughter resides, or asserted or shown that his wife would experience hardship due to hardship suffered by his daughter.

The applicant has not shown that his wife will suffer extreme hardship should he depart the United States and she remain. The only hardship described by the applicant should his wife remain in the United States constitutes economic hardship due to the fact that they are purchasing a home. The applicant provided documentation to show that their home is valued at approximately \$91,000. The applicant's wife earned \$37,784 in 2003. The applicant has not submitted an account of his wife's regular expenses or their housing costs. Thus, the applicant has not shown that his wife would be unable to meet her economic needs, including a mortgage payment, in his absence.

The applicant has not described other elements of hardship his wife would experience should she remain in the United States. In the absence of clear assertions from the applicant, the AAO may not speculate as to the hardships the applicant's wife may endure. In proceedings for an application for

a 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.

Based on the foregoing, the applicant has not shown by a preponderance of the evidence that his wife will experience extreme hardship should he depart the United States and she remain.

The applicant also has not shown that his wife will experience extreme hardship should she relocate to Grenada to maintain family unity. Counsel primarily cites hurricane damage as the cause of the applicant's wife's potential hardship in Grenada. The applicant provided reports on conditions in Grenada dated from August 15, 2005 or earlier, yet the appeal was filed on May 23, 2006, approximately nine months later. The record lacks reports on Grenada's recovery during the nine-month period prior to filing the appeal. Counsel contends that the applicant's home in Grenada was damaged, yet the applicant has not submitted any evidence to support this assertion.

The applicant's wife is employed in the United States and the applicant and his wife are purchasing a home. It is evident that, should the applicant's wife relocate abroad, she would incur the loss of her employment and they would no longer be able to reside in their home in the United States which may result in negative financial consequences. Yet, the applicant has not provided an estimate of his and his wife's economic needs in Grenada, or shown that they would be unable to obtain sufficient employment there.

Counsel contends that medical services are poor in Grenada. However, the applicant has not asserted or shown that his wife has unusual medical needs that cannot be treated in Grenada. The applicant has not shown that all individuals residing in Grenada face health or economic circumstances that rise to the level of extreme hardship.

Based on the foregoing, the applicant has not shown by a preponderance of the evidence that his wife will experience extreme hardship should she relocate to Grenada.

All asserted elements of hardship to the applicant's wife have been considered individually and in aggregate. The applicant has not provided sufficient documentation to show that his wife will experience extreme hardship, should she remain in the United States or depart with the applicant 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.