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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services



115

DATE: AUG 24 2011

Office: PHILADELPHIA, PA

FILE:

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office 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 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 gained entry into the United States by willfully misrepresenting a material fact. The applicant is the daughter of a United States citizen and is the beneficiary of an approved Petition for Alien Relative (Form I-130). The applicant 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 United States citizen parent.

The Field Office Director found that the applicant had failed to establish that extreme hardship would be imposed on the applicant's qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the Field Office Director*, dated March 18, 2009.

On appeal, counsel states that the applicant asserts that the applicant has established extreme hardship to her U.S. citizen parent. Counsel submits a brief and additional evidence. *See Form I-290B and attachments.*

The record includes, but is not limited to, a statement from the applicant's father, dated March 18, 2008, and statements from the applicant and from the applicant's father dated May 1, 2007, describing the hardship claimed; a July 24, 2007 statement from the applicant describing the manner of her entry into the United States; a medical letter from [REDACTED] stating that [REDACTED] (applicant's father), has been his patient at Genesis Primary Care; and counsel's brief and attachments. The entire record was reviewed and considered in arriving at a decision on appeal.

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

- (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 Act is inadmissible.
- . . . .
- (iii) Waiver authorized.-For provision authorizing waiver of clause (i), see subsection (i).

In May 1, 2007 and July 24, 2007 statements, the applicant asserts that in March 2000 she gained entry into the United States at the Buffalo, New York, Port of Entry, by presenting a passport belonging to another person. However, the Field Office Director determined that the applicant had failed to establish the manner of her entry. The director noted that the applicant testified at her interview on March 18, 2008, that she used a fraudulent passport to gain entry into the United States but that there is no indication in Service records that anyone with the applicant's name was ever admitted into the United States; therefore, the applicant could not establish a basis for filing the Form I-601 waiver application. By her own statements the applicant entered the United States in March 2000 with a passport belonging

to another person. Also, by his May 1, 2007 statement the applicant's father confirms that the applicant entered the United States in March 2000.

Counsel contends that while the manner of the applicant's entry may have been fraudulent, she was not advised regarding the manner of her entry as her family made her travel arrangements. However, contrary to counsel's assertion, the applicant, was directly involved in arranging her travel to the United States. In her May 1, 2007 statement the applicant asserts that while in Ghana "[she] found out through some sources of a travel agency that could arrange for [her] travel to the United States. [She] had been working there and had saved \$4,000.00 which [she] gave to an agent. They arranged for [her] to come to Canada where [she] stayed for a month and then arranged for [her] entry into the United States." The applicant states further that prior to coming to the United States "[she] did not realize how bad it was for [her] to do what [she] did." She also stated that she was never issued a passport until after she came to the United States. Regardless of whether she was involved in making her travel arrangements, the applicant was 19 years of age at the time of her entry and knew that she was using a passport belonging to another person to gain entry into the United States.<sup>1</sup>

The applicant is, therefore, inadmissible under section 212(a)(6)(C)(i) of the Act for having procured entry by misrepresenting a material fact.

Section 212 of the Act provides, in pertinent part, that:

(i) (1) The Attorney General [now the Secretary of Homeland Security] may, in the discretion of the Attorney General, 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 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 or, in the case of a VAWA self-petitioner, the alien demonstrates extreme hardship to the alien or the alien's United States citizen, lawful permanent resident, or qualified alien parent or child.

A waiver of inadmissibility under section 212(i) of the Act is dependent on a showing that the bar to admission imposes extreme hardship on a qualifying relative, which includes the U.S. citizen or lawfully resident spouse or parent of the applicant. Hardship to an applicant or other family members can be considered only insofar as it results in hardship to a qualifying relative. The applicant's father is the only qualifying relative in this case. If extreme hardship to a qualifying relative is established, the applicant is statutorily eligible for a waiver, and USCIS then assesses whether a favorable exercise of discretion is warranted. *See Matter of Mendez-Moralez*, 21 I&N Dec. 296, 301 (BIA 1996).

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<sup>1</sup> It is noted that in his May 1, 2007 statement the applicant's father states that the applicant was nineteen years old at the time of her entry in March 2000, but in his March 18, 2008 statement he misstates that the applicant was only 16 years old at the time of her entry. The applicant who was born in October 1981 was 19 years old in March 2000.

Extreme hardship is “not a definable term of fixed and inflexible content or meaning,” but “necessarily depends upon the facts and circumstances peculiar to each case.” *Matter of Hwang*, 10 I&N Dec. 448, 451 (BIA 1964). In *Matter of Cervantes-Gonzalez*, the Board provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship to a qualifying relative. 22 I&N Dec. 560, 565 (BIA 1999). The 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. *Id.* The Board added that not all of the foregoing factors need be analyzed in any given case and emphasized that the list of factors was not exclusive. *Id.* at 566.

The Board has also held that the common or typical results of removal and inadmissibility do not constitute extreme hardship, and has listed certain individual hardship factors considered common rather than extreme. These factors include: economic disadvantage, loss of current employment, inability to maintain one’s present standard of living, inability to pursue a chosen profession, separation from family members, severing community ties, cultural readjustment after living in the United States for many years, cultural adjustment of qualifying relatives who have never lived outside the United States, inferior economic and educational opportunities in the foreign country, or inferior medical facilities in the foreign country. See generally *Matter of Cervantes-Gonzalez*, 22 I&N Dec. at 568; *Matter of Pilch*, 21 I&N Dec. 627, 632-33 (BIA 1996); *Matter of Ige*, 20 I&N Dec. 880, 883 (BIA 1994); *Matter of Ngai*, 19 I&N Dec. 245, 246-47 (Comm’r 1984); *Matter of Kim*, 15 I&N Dec. 88, 89-90 (BIA 1974); *Matter of Shaughnessy*, 12 I&N Dec. 810, 813 (BIA 1968).

However, though hardships may not be extreme when considered abstractly or individually, the Board has made it clear that “[r]elevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists.” *Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996) (quoting *Matter of Ige*, 20 I&N Dec. at 882). The adjudicator “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.” *Id.*

The actual hardship associated with an abstract hardship factor such as family separation, economic disadvantage, cultural readjustment, et cetera, differs in nature and severity depending on the unique circumstances of each case, as does the cumulative hardship a qualifying relative experiences as a result of aggregated individual hardships. See, e.g., *Matter of Bing Chih Kao and Mei Tsui Lin*, 23 I&N Dec. 45, 51 (BIA 2001) (distinguishing *Matter of Pilch* regarding hardship faced by qualifying relatives on the basis of variations in the length of residence in the United States and the ability to speak the language of the country to which they would relocate). For example, though family separation has been found to be a common result of inadmissibility or removal, separation from family living in the United States can also be the most important single hardship factor in considering hardship in the aggregate. See *Salcido-Salcido*, 138 F.3d at 1293 (quoting *Contreras-Buenfil v. INS*, 712 F.2d 401, 403 (9th Cir. 1983)); but see *Matter of Ngai*, 19 I&N Dec. at 247 (separation of spouse and children from applicant not extreme hardship due to conflicting evidence in the record and because applicant and spouse had been voluntarily separated from one another for 28 years). Therefore, we consider the totality of the

circumstances in determining whether denial of admission would result in extreme hardship to a qualifying relative.

In statements dated May 1, 2007 and March 18, 2008, the applicant's father contends that the applicant's removal will result in extreme hardship for him and his family. He states that he has two sons in college and four sons in high school and that he works to provide for the household. Therefore, he states, he cannot take care of the family and relies on the applicant, the only female in the family, to do all of the household work, such as dishwashing and cleaning, and to care for the children when they are sick. The applicant's father also states that he suffers from heart disease, high blood pressure, and high cholesterol, and that he had a heart attack four years after the applicant came to the United States. He reports that he takes medication and regularly visits the doctor. He also asserts that it is the applicant who is his primary caregiver and who takes him to the doctor for regular visits and in emergencies, such as when he has high blood pressure attacks. He also states that the applicant is needed to care for her adopted son who suffers from a severe asthmatic condition, is on medication and goes to the doctor frequently. The applicant's father states that there is no one to care for the applicant's adopted child in her absence. The applicant states that when her younger siblings are sick she takes them to the doctor and also cares for her adopted child.

The record includes a medical letter from Physician Assistant [REDACTED] stating that the applicant's father has been his patient at [REDACTED], and that "[h]is diagnosis includes hypertension, osteoarthritis and a history of Malaria infection." However, Mr. [REDACTED] does not provide any information regarding the severity of the applicant's father's medical conditions, the impact of these conditions on his daily functioning or that he requires any assistance as a result. Also, the record does not include supporting documentation to substantiate that the applicant's child suffers from severe asthma. Beyond Mr. [REDACTED] letter, there is nothing in the record to support the hardship claims made by the applicant.

There is insufficient documentation of the applicant's father's medical condition in the record to allow an assessment of his needs. Without this evidence, the AAO cannot assess the nature and extent of hardship the applicant's father would suffer without the applicant's support and whether such hardship would be beyond that which would normally be experienced as a result of family separation. In addition, the hardships the applicant's siblings and child may experience in the applicant's absence, described only in very general terms, can be considered only to the extent such hardships affect a qualifying relative. However, the record lacks evidence of the impact of any such hardships on the applicant's father, the only qualifying relative.

It is noted that were the applicant to depart to Ghana, the applicant's father would be solely responsible for his six sons. However, the applicant does not provide sufficient details of the family's circumstances to establish the extent to which six siblings who are either in college, or in high school, would be dependent on their father. Therefore, the AAO is unable to assess how the care of his sons will impact the applicant's father.

Counsel asserts that the applicant would experience economic hardship and a threat to her personal safety in Ghana, and in turn these hardships "would weigh [heavily] on [the applicant's father] and would contribute or complicate his current medical condition. However, counsel does not indicate why

conditions in Ghana would affect the applicant and in turn impact the applicant's father, and complicate or contribute to the applicant's father's medical condition.

Counsel asserts that the applicant's father could not live in Ghana due to conditions in the country. However, counsel does not indicate why the applicant's father could not live in his native country. It is noted that country conditions reports in the record indicate generalized conditions in Ghana, but there is no documentation in the record to indicate that any adverse conditions would be specific to the applicant's father.

The AAO finds, therefore, when the hardship factors are considered in the aggregate, the applicant has failed to establish that her U.S. citizen parent will experience hardship beyond what would normally be expected as a result of separation.

Regarding relocation, counsel asserts that the applicant will face "unfavorable" conditions in Ghana. The applicant's father states that if the applicant goes to Ghana she will not be able to provide for herself; she does not have a job in Ghana; her entire family, except her mother who will not allow her to live with her, is in the United States; the economic situation in Ghana is poor; and Ghana is politically unstable. The record indicates, however, that the applicant is well capable of managing her affairs in Ghana as she is familiar with the country where she grew up and worked. It is noted that the applicant stated that while in Ghana she was working and was living with a boyfriend, and the applicant does not indicate why she would not be able to resume her activities in Ghana. Furthermore, hardship the applicant would experience cannot be considered except to the extent such hardships affects a qualifying relative and the applicant does not describe how her father, the qualifying relative, would be impacted by hardships she would experience in Ghana. The applicant submits a 2006 Department of State *Country Report on Human Rights Practices in Ghana*, and a *CIA World Fact Book - Ghana* report. However, the applicant does not indicate how her father, a native of Ghana, would be impacted by the country conditions described in these country reports.

The AAO's review of the documentation in the record, finds that even when considered in its totality, the evidence fails to establish extreme hardship under section 212(i) of the Act. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether she 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. 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.