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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



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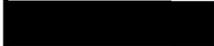


H5

Date: **DEC 28 2011**

Office NEW YORK

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 District Director, New York, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record establishes that the applicant is a native and citizen of Liberia who procured entry to the United States in March 2008 by presenting a fraudulent passport. *Affidavit in Support from* [REDACTED] [REDACTED] dated October 29, 2010. The applicant was thus 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 procured entry to the United States by fraud or willful misrepresentation. The applicant does not contest the district director's finding of inadmissibility. Rather, 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 U.S. citizen spouse and child, born in 2009.

The district director concluded that the applicant had 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 March 11, 2011.

In support of the appeal, counsel submits the following: a brief, dated May 3, 2011; duplicate copies of previously submitted affidavits from the applicant, his spouse, [REDACTED] [REDACTED] medical documentation pertaining to the applicant's spouse from 2004; financial documentation; and information about country conditions in Liberia. The entire record was reviewed and considered in rendering this decision.

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

- (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:

- (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 AAO notes that in October 2011, the applicant was convicted of Conspiracy to Utter Counterfeit U.S. Currency, Attempting to Pass Altered U.S. Currency and Possessing Altered U.S. Currency.

The applicant was sentenced to eight months imprisonment. As the above-referenced convictions occurred after the district director's decision was rendered, the issue of whether or not these convictions are for crimes involving moral turpitude rendering the applicant inadmissible under section 212(a)(2)(A)(i)(I) of the Act has not been addressed. Nevertheless, because the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act and demonstrating eligibility for a waiver under section 212(i) also satisfies the requirements for a waiver of criminal grounds of inadmissibility under section 212(h), the AAO will not determine whether the applicant is also inadmissible under section 212(a)(2)(A)(i)(I) of the Act.

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. The applicant's U.S. citizen spouse is the only qualifying relative in this case. Hardship to the applicant or their child can be considered only insofar as it results in hardship to a qualifying relative. 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-Morales*, 21 I&N Dec. 296, 301 (BIA 1996).

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.

The applicant’s U.S. citizen spouse contends that she will suffer emotional and financial hardship were she to remain in the United States while the applicant relocates abroad due to his inadmissibility. In a declaration, the applicant’s spouse explains that her husband is the head of the household and provides emotional and financial stability to her and their child and long-term separation from him would cause her and her child hardship. The applicant’s spouse expresses fear that she will not be capable of supporting herself and looking after their child by herself. She concludes that her husband is her soul mate who understands her and brings joy and happiness to her and her child. *Affidavit from* [REDACTED], dated November 2, 2010.

In support of the emotional hardship referenced, psychological evaluations have been provided by [REDACTED] interviewed the applicant and his family on August 12, 2010. [REDACTED] noted that the applicant’s spouse is suffering from Major Depressive Disorder as a result of her fear that she will become separated from her husband. Further, [REDACTED] states that the applicant’s child will suffer emotionally if she is separated on a long-term basis from her father. [REDACTED] concludes that the applicant’s spouse should consult a psychologist for psychotherapy. *See Affidavit from* [REDACTED] dated August 12, 2010. Although the input of any mental health professional is respected and valuable, the AAO notes that the submitted letter from [REDACTED] is based on a single interview between the applicant’s family and the psychologist. Moreover, the letter from [REDACTED] noting that the applicant’s spouse has begun individual

psychotherapy was initially submitted with the Form I-601 application and is undated and thus does not establish that the applicant's spouse will experience emotional hardship as a direct result of her husband's inadmissibility. Finally, the medical records pertaining to the applicant's spouse's anxiety attacks are from 2004, approximately four years before she met and married the applicant. The record fails to reflect an ongoing relationship between a mental health professional and the applicant's family and fails to provide sufficient detail about the current mental health condition of the applicant's spouse to establish that separation from the applicant would result in hardship beyond the common results of removal or inadmissibility.

As for the applicant's spouse assertion that she needs her husband to support the family financially, no documentation has been provided on appeal establishing the applicant's and his spouse's current income and expenses and assets and liabilities to establish that as a result of the applicant's physical absence, his wife will experience hardship. The applicant's Form 1040, U.S. Individual Income Tax Return for 2010 indicating business income of \$10,000, submitted by counsel, does not provide the complete financial picture for the applicant and his family. Moreover, the AAO notes that in 2008, the applicant's spouse earned over \$28,000. *See Form W-2 Wage and Tax Statement for* [REDACTED]

[REDACTED] It has thus not been established that the applicant's spouse is unable to obtain gainful employment to support herself and her daughter and be able to afford to travel to Liberia to visit the applicant. Alternatively, it has not been established that the applicant is unable to obtain gainful employment in Liberia that would permit him to assist his wife and children financially in the United States. General articles about unemployment in Liberia do not establish that the applicant specifically would be unable to obtain gainful employment abroad. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The AAO recognizes that the applicant's U.S. citizen spouse will endure some hardship as a result of long-term separation from the applicant. However, her situation, if she remains in the United States, is typical to individuals separated as a result of removal and does not rise to the level of extreme hardship based on the record.

With respect to relocating abroad to reside with the applicant due to his inadmissibility, counsel asserts that the applicant's spouse would experience hardship in Liberia as a result of long-term separation from her country and community, the safety concerns and conditions facing women and children in Liberia, decreased standards of health care, substandard economy and academic system and the danger from the violence which plagues the country. *See Brief in Support of Appeal*, dated May 3, 2011. In support, three articles regarding country conditions in Liberia were provided by counsel. The articles provided are general in nature and do not specifically establish that the applicant's spouse will experience extreme hardship were she to relocate to Liberia at this time to reside with the applicant due to his inadmissibility.

The record, reviewed in its entirety, does not support a finding that the applicant's spouse will face extreme hardship if the applicant is unable to reside in the United States. Rather, the record

demonstrates that she will face no greater hardship than the unfortunate, but expected, disruptions, inconveniences, and difficulties arising whenever a spouse is removed from the United States or is refused admission. There is no documentation establishing that the applicant's spouse's hardships are any different from other families separated as a result of immigration violations. Although the AAO is not insensitive to the applicant's spouse's situation, the record does not establish that the hardships she would face rise to the level of "extreme" as contemplated by statute and case law. As a final note, even if, assuming arguendo, the AAO were to find extreme hardship to the applicant's spouse in this case, the instant appeal would nevertheless be dismissed as a matter of discretion, in light of the serious nature and recency of the applicant's conviction.

In proceedings for application for waiver of grounds of inadmissibility, the burden of proving eligibility remains entirely with the applicant. 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. The application is denied.