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



U.S. Citizenship
and Immigration
Services



HS

DATE: **SEP 12 2011**

OFFICE: ACCRA, GHANA

FILE: 

IN RE: 

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Sections 212(a)(9)(B)(v) and 212(i) of the Immigration and Nationality Act, 8 U.S.C. §§ 1182(a)(9)(B)(v) and 1182(i)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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.

Thank you,

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Accra, Ghana and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. We now reopen the matter on our own motion and withdraw our prior decision. The application will be approved.

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 sought an immigration benefit through fraud or willful misrepresentation, and section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year and seeking admission within ten years of his last departure. He is the spouse and stepfather of U.S. citizens.¹ The applicant seeks waivers under sections 212(a)(9)(B)(v) and 212(i) of the Act, 8 U.S.C. §§ 1182(a)(9)(B)(v) and 1182(i), in order to reside in the United States.

The Field Office Director concluded that the applicant had failed to establish that the bar to his admission would impose extreme hardship on a qualifying relative and denied the Form I-601, Application for Waiver of Grounds of Inadmissibility, accordingly. The Field Office Director further found that the Form I-130, Petition for Alien Relative, benefitting the applicant had been approved in error pursuant to section 204(c) of the Act. *Field Office Director's Decision*, dated March 8, 2011.

On appeal, the AAO found that the Field Office Director had erred in concluding that the applicant was subject to section 204(c) of the Act, but agreed that the evidence of record did not establish that a qualifying relative would suffer extreme hardship as a result of the applicant's inadmissibility, the standard required for waivers of inadmissibility under sections 212(a)(9)(B)(v) and 212(i) of the Act. *AAO Chief's Decision*, dated June 8, 2011.

Subsequent to the issuance of our decision, the AAO learned that evidence submitted by the applicant in support of the waiver application was not part of the record considered by the AAO in our June 8, 2011 review. Therefore, pursuant to the regulation at 8 C.F.R. § 103.5(a)(5)(ii), we now reopen the applicant's proceeding on our own motion to consider this new information

The evidence of record now includes, but is not limited to: statements from the applicant, his spouse, his brother, his spouse's aunt and grandmother, and the pastor of his church; tax returns; credit union statements; documentation of lease agreements; an invoice from the applicant's prior counsel; a Ghanaian police clearance for the applicant; receipts for money transfers wired to the applicant in Ghana; and evidence submitted in connection with the applicant's removal proceedings. The entire record was reviewed and all relevant evidence considered in reaching a decision on the appeal.

Section 212(a)(9)(B) states in pertinent part:

¹ Although the record does not provide birth certificates for the children, the AAO finds tax and welfare documents in the record to establish that at the time of the appeal, the applicant was the stepfather of three minor stepchildren, two of whom were residing with his spouse.

(B) Aliens Unlawfully Present.-

(i) In general. - Any alien (other than an alien lawfully admitted for permanent residence) who-

.....

(II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States, is inadmissible.

The record reflects that the applicant entered the United States on September 2, 1992, with a B-2 nonimmigrant visa, valid until March 1, 1993. The applicant remained in the United States following the expiration of his visa and began accruing unlawful presence on April 1, 1997, the effective date of the unlawful presence provisions under the Act. On September 29, 1999, the applicant filed a Form I-485, Application to Register Permanent Residence or Adjust Status, which temporarily placed him in a period of authorized stay.² With the denial of the Form I-485 on March 28, 2002, the applicant was put into removal proceedings where he renewed his adjustment application. On July 25, 2003, the immigration judge denied the adjustment application and the applicant again accrued unlawful presence until he was removed from the United States on January 22, 2007.³ Based on this history, the AAO finds the applicant to have accrued unlawful presence in excess of one year. As he is seeking immigrant admission within ten years of his 2007 removal, the applicant is inadmissible pursuant to section 212(a)(9)(B)(i)(II) of the Act.

Section 212(a)(6)(C) Misrepresentation, states in pertinent part:

(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 chapter is inadmissible.

² The proper filing of an affirmative application for adjustment of status has been designated by the Attorney General (Secretary of Homeland Security) as a period of stay for purposes of determining bars to admission under section 212 (a)(9)(B)(i)(I) and (II) of the Act. See *Memorandum from Donald Neufeld, Acting Associate Director, Domestic Operations Directorate, et al., Consolidation of Guidance Concerning Unlawful Presence for Purposes of Sections 212(a)(9)(B)(i) and 312(a)(9)(C)(i)(I) of the Act*, dated May 6, 2009.

³ Although the Field Office Director notes that the applicant filed a second Form I-485 on July 29, 2002, in conjunction with the second Form I-130 filed by his spouse, the AAO does not find the record or relevant data bases to confirm this filing.

On March 14, 1996, the District Director, New York denied the first of the Form I-130s submitted to establish the applicant as the spouse of a U.S. citizen, noting that the birth certificate submitted for [REDACTED] the petitioner, and the marriage certificate establishing the applicant's marriage to [REDACTED] on February 24, 1995 were fraudulent. The District Director denied applicant's Form I-485 on the basis of his denial of the I-130.

On January 16, 2002, the Acting District Director, Denver, Colorado denied the second Form I-130, filed on September 29, 1999, noting that the birth certificate for the applicant submitted with the first Form I-130 was fraudulent as an investigation had confirmed that it was not registered in the Births and Deaths Registry in Ghana.

On appeal, the AAO finds the record to contain several briefs filed by the applicant's prior counsel, [REDACTED] in which she contends that the applicant is innocent of having submitted fraudulent documentation to the legacy Immigration and Naturalization Service (now USCIS). The applicant, [REDACTED] claims, was a victim of an immigration fraud perpetrated by two "legal consultants" whom he believed were helping him obtain a travel document to visit his sick father in Ghana. She asserts that the only actions taken by the applicant were paying these individuals a fee, providing them with his passport, and signing several blank forms, the purpose of which he did not understand. [REDACTED] states that the applicant believed that he was applying for a travel document and was unaware that these individuals thereafter filed Forms I-130 and I-485, supported by fraudulent birth and marriage certificates, on his behalf. [REDACTED] claims that the applicant only learned of the fraud when an attorney who previously represented him filed a 1998 Freedom of Information Act request.

The AAO notes [REDACTED] assertions regarding the circumstances that resulted in the submission of a Form I-130 and a Form I-485 supported by fraudulent birth and marriage certificates, but does not find the record to support them. [REDACTED] asserts that the applicant was seeking a travel document that would allow him to visit his sick father when he sought the assistance of the immigration consultants who victimized him. The record, however, contains a December 11, 2010 statement from the applicant in which he indicates that, in 1995, he approached the two individuals who "duped" him for assistance in remaining permanently in the United States and that he was aware they had filed for permanent residency on his behalf. We also note that the applicant, both on the Form I-485 he filed on September 29, 1999 and at the time of his April 19, 2001 adjustment interview, stated that he had previously filed an adjustment application in March 1995.

While the applicant in his December 11, 2010 statement asserts that he explained the circumstances surrounding the submission of the first Form I-485 at the time of his 2001 interview and that his counsel at that time had responded to the interviewing officer's request for additional documentation, a review of the record does not find this request for evidence or former counsel's response. We do find that in response to the Notice of Intent to Deny issued to the applicant on October 2, 2001, prior counsel submitted a statement from the applicant's spouse in which she asserts that the applicant informed her that in looking for a way to return to Ghana to see his dying father he had been "scammed" by two men who claimed to work for the legacy Immigration and

Naturalization Service in New York. She contends that he did not know that they had used fraudulent documents on his behalf.

Based on the record, neither prior counsel's nor the applicant's spouse's reporting of the applicant's victimization by the immigration consultants is persuasive. The applicant's own statement indicates that when he approached the consultants from whom he sought assistance, he was trying to find a way to remain permanently in the United States. Moreover, the record indicates that the first Form I-130 and Form I-485 were filed in March 1995. The applicant's father, however, did not become ill until approximately one year later, as established by a February 22, 1996 cable addressed to the applicant that states his father is ill and instructs him to proceed to Ghana. A Form I-131, Application for Travel Document, filed by the applicant on February 29, 1996 is found in the record.

In the present matter, the applicant claims to have had no knowledge that fraudulent documentation was used to support the Form I-130 underlying his 1995 application for permanent residence. However, the record does not provide any credible evidence that this is the case and the inconsistent explanations of the events that led to the filing of the fraudulent documentation provided by the applicant, his spouse and prior counsel further undermine the applicant's claim. In proceedings for an application for a waiver of grounds of inadmissibility, the burden of proof is the applicant's. *See* section 291 of the Act, 8 U.S.C. § 1361. Here the applicant has not met that burden and we, therefore, conclude that in 1995 the applicant attempted to establish eligibility as a lawful permanent resident based on a fictitious marriage to a U.S. citizen. Accordingly, he is inadmissible to the United States under section 212(a)(6)(C)(i) of the Act for having sought a benefit under the Act through fraud or willful misrepresentation.

We now turn to a consideration of the applicant's eligibility for waivers of his 212(a)(6)(C)(i) and 212(a)(9)(B)(i)(II) inadmissibilities under sections 212(a)(9)(B)(v) and 212(i) of the Act.

Section 212(a)(9)(B)(v) of the Act states as follows:

The Attorney General [now Secretary of Homeland Security] has sole discretion to waive clause (i) in the case of an immigrant who is the spouse or son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established . . . that the refusal of admission to such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien.

Section 212(i) of the Act provides that:

(1) The Attorney General 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 either section 212(a)(9)(B)(v) or 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. Accordingly, in this proceeding, hardship to the applicant or his stepchildren will be considered only insofar as it results in hardship to the applicant's spouse. If extreme hardship to a qualifying relative is established, the applicant is statutorily eligible for a waiver, and United States Citizenship and Immigration Services (USCIS) then assesses whether a favorable exercise of discretion is warranted. *See Matter of Mendez-Moralez*, 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 of Immigration Appeals (BIA) 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 BIA 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 BIA 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 BIA 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, etc., 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.

On appeal, the applicant states that he does not have a job, income or his own residence in Ghana and that he is being taken care of by his older brother. The applicant also indicates that his friends in the United States have been sending him money. He asserts that his financial situation will result in extreme hardship for his spouse and children if they join him and that relocation will result in his children being exposed to a culture that is alien to them and will disrupt their education. He further states that as he is unemployed, he cannot pay for his children’s schooling and that if they or his spouse become ill, he will not be able to afford medical treatment. The applicant also asserts that the medical system in Ghana is not well-equipped like that in the United States and will compound an already extremely difficult situation.

In support of these assertions, the record contains an April 4, 2011 statement from the applicant’s brother, [REDACTED]

[REDACTED] states that the applicant has been living with him since he returned from the United States and that he is not employed. [REDACTED] also indicates that he is responsible for the applicant’s expenses, including his medical expenses and visa filing fees. Further evidence of the applicant’s financial circumstances is provided by a number of money transfers wired to the applicant in 2007, 2009, 2010 and 2011, in amounts ranging from \$46.85 to \$420. Based on this evidence, the AAO finds the record to establish that the applicant is financially dependent on his older brother and the monetary gifts provided by his friends in the United States.

The AAO takes note of the impact of the applicant’s financial instability on his spouse’s ability to succeed in a new country and culture; the complications presented by relocating with children who must be introduced to an unfamiliar culture, including a foreign educational system; and the normal disruptions and difficulties that result from relocation. We find that when these factors are

considered in the aggregate, the applicant has established that his spouse would experience extreme hardship if she joins him in Ghana.

On appeal, the applicant also claims that his spouse is facing extreme hardship in the United States because she must "shoulder all the responsibilities of the family." He states that this financial burden has resulted in a significant strain on her. The applicant also asserts that because his spouse must pay other bills, she has been unable to pay the fees charged by his prior counsel and that this lawyer has ceased to represent him as a result of this unpaid bill. The applicant reports that as of November 27, 2009, he owed his prior counsel \$33,062.53. The applicant further states that, as a result of his immigration detention in 2005-2006, his spouse's university education was disrupted and that she will not be able to return to school until he can return to the United States and provide her with financial support.

In a July 15, 2005 statement, written after the applicant was detained by immigration authorities, the applicant's spouse indicates that she has been receiving approximately \$300 a month from the [REDACTED] the applicant's church, to help her pay her bills. In a November 22, 2010 statement, the applicant's spouse asserts that since the applicant was detained and removed to Ghana, the family has been in a difficult financial situation that worsened when the [REDACTED] stopped providing them with financial assistance. The applicant's spouse reports that as a result of her subsequent inability to meet the family's financial obligations, she lost their residence. She also states that she has had to sell most of the things for which she and the applicant worked and that the family no longer has a car or a washing machine and dryer. The applicant's spouse further asserts that the applicant's counsel no longer represents him because of the large amount of money they owe and that she personally owes a significant amount of money to her aunt [REDACTED]. The applicant's spouse states that she can no longer bear to visit her aunt and those friends from whom she has borrowed money.

The AAO also observes that, in her November 22, 2010 statement, the applicant's spouse contends that the applicant is the only father her children know and that they need his guidance and direction now that they are in their teens. Her children, the applicant's spouse asserts, have been affected emotionally and academically by the applicant's absence. She states that she is unable to provide most of the things her children need as she lost her previous job and now works at McDonald's, where she does not earn much money. She also states that she feels as though she is losing her children to their environment. The applicant's spouse contends that if the applicant had been able to remain in the United States, she could have completed her master's degree by now or would at least have a better paying job based on her bachelor's degree.

The record contains two statements from [REDACTED] the applicant's spouse's aunt, dated November 14, 2006 and October 29, 2010. In her November 14, 2006 statement [REDACTED] asserts that the applicant's spouse has been forced to give up her studies and work at various part-time jobs to put food on the table for her children. She states that the applicant's spouse's financial situation has gotten so desperate that she lost her home and has moved in with friends. [REDACTED] further asserts that the applicant's spouse's family is trying to help support her but that there is only so much

that they can do. In her October 29, 2010 statement, [REDACTED] indicates that the removal of the applicant from the United States has been financially and emotionally devastating for her niece and her children, and that her niece lived with her for some time as a result of her financial problems. [REDACTED] also states that the applicant's spouse's family is afraid that her children could succumb to peer pressure and the vices of society in the applicant's absence. She states that she hopes the applicant will be allowed to return to the United States to prevent her niece from making any unwise decisions.

In a November 14, 2006 statement, [REDACTED] the applicant's spouse's grandmother, asserts that during the time the applicant was detained, her granddaughter had to give up her schooling because she no longer had the applicant's financial support. A July 11, 2005 statement from [REDACTED] establishes that during the applicant's detention in 2005-2006, the church was providing his family with rent money. In his statement, [REDACTED] contends that the applicant's family has been seriously affected by his detention and has been disoriented.

The AAO finds the record to contain limited documentary evidence of the applicant's spouse's financial situation. While it includes a 2008 W-2 form and tax return that establish the applicant's spouse's annual income was then \$17,554, her November 22, 2010 statement indicates that she lost this job and is currently employed by McDonald's where, she asserts, she does not earn much money. The record does not document the applicant's spouse's income from her new employment.

The AAO, however, takes note of the 2005 statement from [REDACTED] that demonstrates the applicant's family required his church's financial assistance to pay their rent when the applicant was placed in immigration detention, the statements from the applicant's spouse's grandmother and aunt regarding the financial problems she has experienced without the applicant, and the evidence establishing the applicant's inability to assist his spouse financially from Ghana. We also find the record to contain a copy of the November 27, 2009 billing statement sent to the applicant by his prior counsel, which indicates that the applicant and his spouse owe a total of \$33,061.53 in legal fees. The AAO observes that the interest charged on the applicant's overdue account is steadily increasing his and his spouse's financial obligation to his prior counsel. At the monthly rate of interest shown, this obligation currently totals approximately \$45,000.

The AAO also acknowledges the statements of the applicant's spouse, her aunt, her grandmother and the applicant's pastor, all of which report the emotional hardship that has been created for the applicant's spouse and children as a result of their separation from the applicant. While these statements do not demonstrate the specific impacts of the applicant's removal on his spouse's emotional/mental health, the AAO notes that the emotional impact created by the separation of families is a factor considered in all extreme hardship determinations.

Having reviewed the evidence of record, the AAO finds that when the applicant's spouse's financial hardship and her responsibilities and concerns as a single parent are considered in combination with the difficulties routinely created by the separation of a family, the record establishes that she would

experience extreme hardship if she remains in the United States without the applicant. Accordingly, the record demonstrates that the applicant is statutorily eligible for waivers of inadmissibility under sections 212(a)(9)(B)(v) and 212(i) of the Act.

The AAO additionally finds that the applicant merits a waiver of inadmissibility as a matter of discretion. In discretionary matters, the applicant bears the burden of proving eligibility in terms of equities in the United States which are not outweighed by adverse factors. *See Matter of T-S-Y-*, 7 I&N Dec. 582 (BIA 1957).

In evaluating whether section 212(h)(1)(B) relief is warranted in the exercise of discretion, the factors adverse to the alien include the nature and underlying circumstances of the exclusion ground at issue, the presence of additional significant violations of this country's immigration laws, the existence of a criminal record, and if so, its nature and seriousness, and the presence of other evidence indicative of the alien's bad character or undesirability as a permanent resident of this country. The favorable considerations include family ties in the United States, residence of long duration in this country (particularly where alien began residency at a young age), evidence of hardship to the alien and his family if he is excluded and deported, service in this country's Armed Forces, a history of stable employment, the existence of property or business ties, evidence of value or service in the community, evidence of genuine rehabilitation if a criminal record exists, and other evidence attesting to the alien's good character (e.g., affidavits from family, friends and responsible community representatives).

See Matter of Mendez-Morales, 21 I&N Dec. 296, 301 (BIA 1996). The AAO must then, "[B]alance the adverse factors evidencing an alien's undesirability as a permanent resident with the social and humane considerations presented on the alien's behalf to determine whether the grant of relief in the exercise of discretion appears to be in the best interests of the country." *Id.* at 300. (Citations omitted).

The adverse factors in the present case are the applicant's failure to comply with the terms of his nonimmigrant visa and his subsequent unlawful presence in the United States; his use of fraudulent documents in an attempt to obtain lawful permanent residence; his failure to comply with a July 25, 2003 removal order; his unauthorized employment; and his removal from the United States on January 22, 2007. The mitigating factors in the present case are the applicant's U.S. citizen spouse and children; the extreme hardship to his spouse if he is denied a waiver of inadmissibility; the absence of a criminal record, his consistent payment of taxes; the July 11, 2005 letter of support from his pastor that indicates the applicant was a responsible member of his church, serving as a Sunday School teacher and an Associate Pastor; and statements from the applicant's spouse's family members attesting to the applicant's positive role in his spouse's and children's lives.

The AAO finds the immigration violations committed by the applicant to be serious in nature and does not condone them. Nevertheless, we conclude that taken together, the favorable factors in the present case outweigh the adverse factors, such that a favorable exercise of discretion is warranted.

In proceedings for an application for a waiver of grounds of inadmissibility under sections 212(a)(9)(B)(v) and 212(i) of the Act, the burden of establishing that the application merits approval remains entirely with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has met that burden. Accordingly, the AAO's prior decision will be withdrawn and the application will be approved.

ORDER: The AAO's prior decision is withdrawn. The waiver application is approved.