



U.S. Citizenship  
and Immigration  
Services

[REDACTED]

HS

DATE: Office: PHILADELPHIA, PA

DEC 21 2012

FILE: [REDACTED]

IN RE: [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:

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg  
Acting 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 applicant is a native and a citizen of Cameroon who misrepresented his marital status when applying for a U.S. nonimmigrant visa. The applicant 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). He is the spouse of a U.S. citizen. The applicant is seeking a waiver under section 212(i) of the Act, 8 U.S.C. § 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, his U.S. citizen spouse, and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) on November 10, 2011.

On appeal, the applicant asserts that the Field Office Director erroneously determined that he is inadmissible due to misrepresentation, and that his spouse will suffer extreme hardship if the applicant is prohibited from residing in the United States. *Form I-290B*, received December 8, 2011.

The record contains, but is not limited to, the following relevant documentation: a statement from the applicant, his spouse and friends and associates of the applicant; a copy of discharge instructions from a hospital visit; and a copy of a tax return for the applicant's spouse for 2010. The entire record was reviewed and all relevant evidence considered in rendering this decision.

Section 212(a)(6)(C) of the Act 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.

The record indicates that the applicant stated that he was married to a Cameroonian citizen when applying for a non-immigrant visa to enter the United States in 2010. Evidence in the record reveals that the applicant's former spouse divorced him in 2009. On appeal, the applicant asserts that the Field Office Director erroneously concluded he is inadmissible due to misrepresentation but failed to articulate how or why the Field Office Director was incorrect in his conclusion, and failed to offer any evidence supporting this assertion. As such, the AAO finds that the record to establish that the applicant entered the United States by materially misrepresenting his marital status. Therefore the applicant is inadmissible pursuant to section 212(a)(6)(C)(i) of the Act.

Section 212(i) of the Act provides, in pertinent part:

- (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 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 any children can be considered only insofar as it results in hardship to a qualifying relative. The applicant's spouse 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-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 spouse states on appeal that she would not be able to relocate to Cameroon without experiencing extreme hardship. *Statement of the Applicant’s Spouse*, received January 12, 2010. She explains that she has three children, was born and raised in the United States and has no family or community ties in Cameroon. She notes that the physical conditions there would result in hardship to herself and her children.

The record contains a country report on Cameroon by the U.S. Department of State. This report indicates that Cameroon is struggling economically and that many of its provinces are underserved by state-run infrastructure. The AAO also takes note of medical evidence submitted to support the applicant’s spouse’s assertion that she has medical conditions. The evidence with regard to her medical condition is sufficient to establish that she was diagnosed with an ovarian cyst and Dysmenorrhea on December 15, 2011, and prescribed medications. The AAO can reasonably conclude that having to seek medications and medical care for the monitoring of her condition would result in an uncommon medical impact upon relocation to Cameroon.

In addition, although children are not qualifying relatives in this proceeding, the AAO finds that having to relocate three children to a country experiencing conditions such as those in Cameroon,

particularly for children who have been born and raised in the United States, would result in an uncommon physical hardship on the applicant's spouse.

When these hardship factors are considered in conjunction with the common impacts of relocation, the AAO finds that the applicant's spouse would experience hardship impacts rising to the level of extreme hardship upon relocation.

With regard to hardship upon separation, the applicant's spouse asserts that she will be devastated if the applicant is removed as she depends on him financially and physically. The applicant's spouse previously asserted that she was in a 15-months nursing program on September 24, 2011. She states that without the applicant to support her and her children financially she will not be able to continue her education or pursue the hopes and dreams she and the applicant have for themselves and their children.

The record does not contain any documentation verifying that the applicant's spouse is enrolled in a nursing program, and the AAO is unable to determine if she completed the program or if she continues to engage in academic training. Even in a light most favorable to the applicant, if there were evidence to establish that his spouse was enrolled in an educational program and showing the associated demands on her schedule, the applicant has not shown that having to suspend her educational program so she can seek employment to support her children is an uncommon circumstance. In addition, the record contains a tax return from 2010 indicating the applicant's spouse earned \$18,000 that year. The record does not contain any documentation indicating that the applicant's spouse is unable to meet her financial obligations based on her current income.

The applicant's spouse also explains that she suffers from ovarian cysts and dysmenorrhea, and that she depends on the applicant to assist her with parenting duties and the caring of her sick, elderly mother. The record does not contain any documentation indicating that the applicant's spouse's mother is sick or that she requires any physical or financial assistance from the applicant or his spouse.

As noted above, the record does contain a hospital discharge report indicating the applicant's spouse was diagnosed with an ovarian cyst and dysmenorrhea in December 2011. This document confirms the diagnosis of the applicant's spouse's condition, but in its explanatory language states that surgery to correct the complications is rare, and that the pain associated with these conditions is controllable with medication. The AAO finds this evidence sufficient to establish that the applicant's spouse will experience some physical hardship due to these conditions, but it is not sufficient to establish that she will experience such a physical impact that it would rise to the degree of extreme hardship.

The record contains some evidence of a medical condition suffered by the applicant's spouse. However, the record does not establish that the applicant's spouse will experience an uncommon financial impact or other impacts which, when considered in the aggregate with other hardship factors, would result in extreme hardship. As such, the AAO does not find the record to establish that a qualifying relative will experience extreme hardship due to separation.

Although the applicant has demonstrated that the qualifying relative would experience extreme hardship if she relocated abroad to reside with the applicant, we can find extreme hardship warranting a waiver of inadmissibility only where an applicant has shown extreme hardship to a qualifying relative in the scenario of relocation *and* the scenario of separation. The AAO has long interpreted the waiver provisions of the Act to require a showing of extreme hardship in both possible scenarios, as a claim that a qualifying relative will relocate and thereby suffer extreme hardship can easily be made for purposes of the waiver even where there is no actual intention to relocate. *Cf. Matter of Ige*, 20 I&N Dec. 880, 886 (BIA 1994). Furthermore, to relocate and suffer extreme hardship, where remaining the United States and being separated from the applicant would not result in extreme hardship, is a matter of choice and not the result of inadmissibility. *Id.*, *also cf. Matter of Pilch*, 21 I&N Dec. 627, 632-33 (BIA 1996). As the applicant has not demonstrated extreme hardship from separation, we cannot find that refusal of admission would result in extreme hardship to the qualifying relative in this case. 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.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is upon the applicant to establish that he is eligible for the benefit sought. *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.