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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

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U.S. Citizenship  
and Immigration  
Services

H5

DATE: **JAN 30 2012**

OFFICE: NEWARK, NJ

FILE: [REDACTED]

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:

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, Newark, New Jersey, who also denied the applicant's subsequent motion. The Field Office Director's denial of the motion 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 Cameroon 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 fraud or willfully misrepresenting a material fact. The applicant is married to 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.

The Field Office Director found 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 Field Office Director*, dated July 16, 2009.

On appeal, counsel for the applicant asserts the applicant has established extreme hardship to his qualifying relative and submits additional evidence. *See Notice of Appeal or Motion (Form I-290) and attachments.*

The record includes, but is not limited to, statements from the applicant and her spouse describing the hardship claimed; a statement from the applicant's cousin; a psychological evaluation of the applicant's spouse; a 2005 income tax record, earnings statements for the applicant's spouse; bank account statements; an employment verification letter for the applicant's spouse; a 2006 lease agreement; support statements from the applicant's pastor and friends; medical documentation relating to the applicant's mother-in-law; published country conditions information on Cameroon; and counsel's briefs and attachments. The entire record was reviewed and considered in arriving at a decision on the 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).

The record reflects that on December 29, 2002, the applicant gained entry to the United States by presenting another individual's Cameroonian passport and U.S. visa. The applicant is, therefore, inadmissible under section 212(a)(6)(C)(i) of the Immigration and Nationality Act for having gained entry into the United States by willfully misrepresenting a material fact. The applicant does not dispute this finding.

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

(i) (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 other family members can be considered only insofar as it results in hardship to a qualifying relative. The applicant's spouse is the 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.

On appeal, counsel asserts that separation will cause the applicant’s spouse emotional hardship. Counsel states that the applicant was a victim of rape and sexual abuse in Cameroon and that her spouse would be fearful for her life, safety and overall well-being if she returns to Cameroon. Counsel contends that the applicant’s story of survival should be recognized and imputed to her spouse as he is her life partner and protector. Counsel also states that the spouse’s concerns over his inability to protect the applicant if she returns to Cameroon have become an “incapacitating affliction.”

In a January 20, 2007 affidavit, the applicant’s spouse states that the applicant has been a terrific partner, that they have established strong and deep social, religious and economic ties to the United States and that they want to build a family together. He states that the applicant suffered sexual abuse by a family member in Cameroon and that he could not live knowing that she had to return to a place of ugly memories of pain and shame.

The applicant states in a January 21, 2007 affidavit that she loves her spouse and wants their family to be complete with children in the near future. She also states that she was raped in Cameroon at 12 years-of-age and was later sexually abused by an uncle. She states that she fled Cameroon using a cousin’s passport to escape her uncle.

To establish the psychological impact of separation on her spouse, the applicant submits a January 11, 2007 psychological evaluation, prepared by licensed psychologist, [REDACTED]. Based on his interview of the applicant and her spouse, [REDACTED] concludes that the applicant’s spouse has developed an Adjustment Disorder with Mixed Anxiety and Depressed Mood as a direct result of his fear that the

applicant might have to leave the United States and return to Cameroon. He states that the applicant's spouse is consumed by apprehension at the thought of what could happen to the applicant if she returns to Cameroon. [REDACTED] states that the applicant's spouse's symptoms include sleep disturbance, overeating to mask depressive symptomatology, weight gain, difficulty focusing and concentrating, sadness and anxiety, and crying spells. [REDACTED] states that there appears to be a real and deep bond between the applicant and her spouse.

Although the input of any mental health professional is respected and valuable, we find the submitted psychological evaluation to be of limited value to a determination of extreme hardship in this matter. The evaluation is based on an interview of the spouse conducted in January 2007, more than two years prior to the filing of the appeal. No more recent evidence updates the spouse's mental/emotional status. The evaluation is limited in its discussion of the spouse's emotional/mental status. Specifically, it lacks the detailed mental health analysis the AAO requires to reach a determination of extreme hardship, including how in the applicant's absence, her spouse's anxiety and depression would affect his ability to function on a daily basis, including the performance of his job responsibilities and the care of his mother.

We acknowledge the applicant's claim that she had been raped at 12 years-of-age and to have experienced sexual abuse at the hands of her uncle. Country conditions information in the record supports the applicant's claim as the reports indicate that approximately 5.2% of women in Cameroon have been raped. We note the applicant's spouse's concerns about the applicant's safety if she is removed. We also note, however, that the applicant does not express the same concerns.

Based on the record before us, the AAO does not find the applicant to have submitted sufficient evidence to demonstrate the claimed impacts of separation on her spouse. Accordingly, the AAO does not find the applicant to have established that separation would cause her spouse to experience extreme hardship.

Counsel asserts that relocation to Cameroon would result in extreme hardship to the applicant's spouse because he was born in the United States and has lived his entire life in the United States, has no family ties to the Cameroon, is not familiar with its culture and tribal customs, does not speak the language, and has never lived in an undeveloped country.

Counsel also asserts in his appeal brief that the applicant's spouse is the sole provider and primary caregiver for his 88-year old mother who has several debilitating ailments. In his brief submitted with the waiver application, counsel contends that the applicant's spouse is distressed about what would happen to his mother in his absence. He states that the applicant's spouse visits his mother daily and has secured a professional home health aide to care for her daily needs, and that he pays \$2,200 monthly out of pocket to avoid having to place his mother in a nursing home. Counsel further contends that any disruption in the consistency and quality of her medical care would result in extreme hardship to the applicant's spouse. Counsel also asserts that the applicant's spouse would have to leave his employment and career, but would not be able to obtain employment in Cameroon.

The applicant's spouse also states that since his father's death, his elderly mother relies on him as an elder statesman for their family and that they are able to spend time together. He states that he cherishes his role in the family and would never want to harm it.

To establish the medical problems of the applicant's mother-in-law, the record includes documentation that the applicant's spouse's mother suffers from various medical problems. A January 16, 2007 medical note from [REDACTED] states that the applicant's spouse's mother is being treated for Alzheimer's Disease, Osteoarthritis and hypertension.

While the record does not establish that the applicant's spouse is responsible for his mother's financial well-being or her daily care, the AAO acknowledges that leaving his elderly, ill mother to relocate to Cameroon would result in emotional hardship to him. Moreover, we note that the applicant's spouse has never lived outside the United States; has no family ties to Cameroon, beyond the applicant; is unfamiliar with Cameroonian culture and society; and does not speak French, which would affect his ability to find employment in Cameroon. When the specific hardship factors just indicated are added to the hardships that commonly result from relocation, the AAO finds that applicant has established that her United States citizen spouse would suffer extreme hardship if he moved with her to Cameroon.

We can find extreme hardship warranting a waiver of inadmissibility only where an applicant has demonstrated extreme hardship to a qualifying relative in the scenario of separation *and* the scenario of relocation. 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 in 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.

As the record fails to establish that the applicant's qualifying relative would experience extreme hardship as a result of her inadmissibility to the United States, she has not established eligibility for a waiver under section 212(i) of the Act. Having found the applicant statutorily ineligible for relief, no purpose would be served in considering 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.