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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

PUBLIC COPY

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Date: MAR 19 2012

Office: ACCRA, GHANA

FILE: 

IN RE:

Applicant: 

APPLICATION: Application for Waiver of Grounds of Inadmissibility pursuant to section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

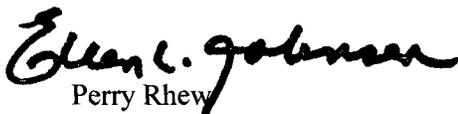
SELF-REPRESENTED

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.

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, Accra, Ghana. The matter 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 Act for willful misrepresentation of a material fact in order to procure an immigration benefit. The applicant is engaged to a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act in order to reside with her fiancé in the United States.

The field office director found that the applicant failed to establish extreme hardship to a qualifying relative and denied the application accordingly. *Decision of the Field Office Director*, dated August 17, 2009.

On appeal, the applicant's fiancé states that he has been living in Ghana with his fiancé and needs her to return to the United States with him because his health is steadily failing and she is the only person who can assist him.

The record contains, *inter alia*: two letters from the applicant's fiancé, [REDACTED] a medical report and laboratory reports; copies of deeds; a tenancy agreement; a copy of a death certificate; photographs; and an approved Petition for Alien Fiancé (Form I-129F). The entire record was reviewed and considered in rendering this decision on the appeal.

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

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.

Section 212(i) provides, in pertinent part:

- (1) The Attorney General [now Secretary of Homeland Security] may, in the discretion of the Attorney General [now Secretary of Homeland Security], 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 [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully permanent resident spouse or parent of such an alien

In this case, the record shows that the applicant applied for a nonimmigrant visa as [REDACTED] giving a date of birth as June 14, 1983, after having previously applied for a nonimmigrant visa as

born on May 16, 1978. The record indicates that the applicant had two passports and identity documents in both names and with both birthdates. The applicant does not concede that she willfully misrepresented her identity. Rather, according to the applicant, in 2004, she paid a fee to an agency to be an exchange student, but was refused a visa. The applicant states she demanded her passport and a refund, but was told that her passport was missing. She states she made a report at a police station and acquired a new passport herself.

The Act clearly places the burden of proving eligibility for entry or admission to the United States on the applicant. See Section 291 of the Act, 8 U.S.C. § 1361 (“Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document . . .”). Furthermore, it is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The applicant’s explanation that her passport was missing and that she subsequently obtained a new passport does not resolve the inconsistencies regarding the two names and two dates of birth the applicant used for her visa applications. The applicant has not provided any objective evidence to explain these inconsistencies. As such, she has not met her burden of proving eligibility for admission to the United States. Therefore, the AAO finds that the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act for willful misrepresentation of a material fact in order to procure an immigration benefit.

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 this case, the applicant’s fiancé, ██████████ states that he has lived in Ghana for a while, has worked as a communication engineer, and has been with his fiancé for almost four years. ██████████ contends he has diabetes and hypertension and takes prescription medications for his conditions. According to ██████████ his health is steadily failing, his vision is getting blurred, he feels very weak, he has bloody stools and diarrhea, and he needs to return to the United States for an extensive medical examination. He states that his fiancé is the only person who can assist and support him because his mother passed away, he has no children, and he is an only child. ██████████ claims he needs his fiancé to drive him to and from the hospital, to prepare his meals, and to assist him with his medications because his sight is failing. In addition, ██████████ states that the applicant is a student nurse and that she knows a lot about his health conditions. Moreover, he states that he owns three houses in Georgia and that he has abandoned his properties. According to ██████████ the City of Atlanta will soon fine him for abandoning his properties.

After a careful review of the record, there is insufficient evidence to show that [REDACTED] will suffer extreme hardship if he continues to live in Ghana. Regarding his contention that he needs to return to the United States for a complete medical exam, although a medical report and lab reports in the record corroborate his contention that he has diabetes and hypertension, there is no evidence to suggest that his medical problems have not been adequately monitored and treated in Ghana. The AAO notes that the medical report and lab reports are from Ghana; there is no evidence in the record showing that [REDACTED] has ever received medical treatment for his conditions in the United States. Furthermore, there is no letter in plain language from any health care professional addressing the prognosis, treatment, or severity of [REDACTED] conditions and no suggestion that his health is declining. Moreover, the record shows that [REDACTED] was born in Ghana, and according to his Biographic Information form (Form G-325A), he has owned [REDACTED] in Ghana from October 1983 until the present, and he lived in Ghana from August 1991 until July 2007. The record also shows that his mother also resided in Ghana until her death in 2006 and [REDACTED] contends he currently resides in Ghana with his fiancé. Therefore, the record shows that [REDACTED] has extensive ties to Ghana. To the extent [REDACTED] contends that the City of Atlanta will soon fine him for abandoning his three houses, there is no evidence in the record, such as a letter from the City of Atlanta, to corroborate this claim. In any event, [REDACTED] does not address why he cannot travel to the United States to take care of his properties himself or hire someone to help him manage his properties. The AAO notes that the applicant has not made a financial hardship claim and there are no financial documents in the record showing wages or monthly expenses.

Moreover, there is insufficient documentation to show that returning to the United States without his fiancé would cause extreme hardship to [REDACTED]. Although the AAO is sympathetic to the couple's circumstances, if [REDACTED] decides to return to the United States without his fiancé, their situation is typical of individuals separated as a result of inadmissibility or exclusion and does not rise to the level of extreme hardship based on the record. Therefore, even considering all of the evidence in the aggregate, there is insufficient information in the record to show that [REDACTED] would suffer extreme hardship if he decided to return in the United States without his fiancé. Considering all of these factors cumulatively, the AAO finds that there is insufficient evidence to show that the hardship [REDACTED] would experience is extreme, going beyond those hardships ordinarily associated with inadmissibility.

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's fiancé caused by the applicant's inadmissibility to the United States. 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.