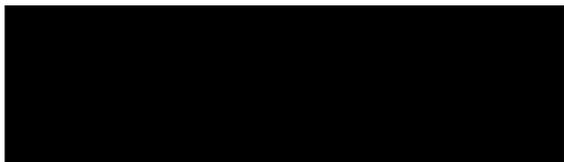


identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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



**PUBLIC COPY**



115

DATE: **MAY 01 2012** OFFICE: ACCRA, GHANA FILE:

IN RE:

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:

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 Form I-601, Application for Waiver of Inadmissibility (Form I-601) was denied by the Field Office Director, Accra, Ghana, on February 19, 2010, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Nigeria 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 attempting to procure admission into the United States by willfully misrepresenting a material fact. The applicant's father is a naturalized U.S. citizen, and the applicant is the beneficiary of an approved Form I-130, Petition for Alien Relative. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to live in the United States near his father.

In a decision dated February 19, 2010, the director determined the applicant had failed to establish that his father would experience extreme hardship if he were denied admission into the United States. The waiver application was denied accordingly.

The applicant acknowledges on appeal that he misrepresented his identity and birth year on a visitor visa application in 2004, in order to improve his chance of being granted the visa. He contests, however, that he applied for a visitor visa under a different identity in February 2008. The applicant apologizes for his actions in 2004, and he asserts that his father will experience extreme hardship if he is denied admission into the United States. In support of his assertions the applicant submits letters and medical and financial documentation. The entire record was reviewed and considered in rendering a decision on the appeal.

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

- (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.

A misrepresentation or concealment must be shown by clear, unequivocal, and convincing evidence to be predictably capable of affecting the official decision in order to be considered material. See *Kungys v. United States*, 485 U.S. 759, 771-72 (1988). Fraud or willful misrepresentation of a material fact in the procurement or attempted procurement of a visa, other documentation, or admission must be made to an authorized official of the United States government in order for inadmissibility under section 212(a)(6)(C)(i) of the Act to be found. See *Matter of Y-G-*, 20 I&N Dec. 794 (BIA 1994); see also *Matter of D-L- & A-M-*, 20 I&N Dec. 409 (BIA 1991).

The record reflects that in 2004, the applicant attempted to procure a visitor visa by providing a false name and date of birth to the U.S. Embassy in Nigeria. The applicant does not contest his inadmissibility based on these facts. The record also demonstrates the applicant provided false identity information to the U.S. Embassy in 2008 in order to obtain a visitor visa. Although the applicant now contests that he attempted to procure a nonimmigrant visa in 2008, he admitted in his Form I-601 waiver application that he applied for a visitor's visa at the U.S. Embassy in Nigeria in 2008, using a false date of birth. The director's decision reflects further that the applicant's

fingerprint results reveal he applied for a non-immigrant visa on February 27, 2008, using a name and date of birth that belonged to another individual. The applicant is therefore inadmissible under section 212(a)(6)(C)(i) of the Act.

Section 212(i) of the Act provides that:

- (1) The [Secretary] may, in the discretion of the [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien 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 resident spouse or parent of such an alien.

Section 212(i) of the Act provides that a waiver of the bar to admission is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member. Once extreme hardship is established, it is but one favorable factor to be considered in the determination of whether the Secretary should exercise discretion. *See Matter of Mendez*, 21 I&N Dec. 296 (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*, 22 I.&N. Dec. 560, 565 (BIA 1999), 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. 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, supra* 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, 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 father is a qualifying relative under section 212(i) of the Act.

The applicant states in a letter that his father is sick and no longer able to work, support himself, or pay his medical bills in the United States. The applicant states that he is unemployed in Nigeria and thus unable to assist his father financially from Nigeria. He is confident, however, that he would be able to secure employment in order to financially assist his father if he moved to the United States. Because he is unemployed, the applicant also states he would be unable to support his father financially if his father were in Nigeria. He also states his father would receive inferior medical care if he relocated to Nigeria.

The applicant’s father states he suffered a stroke in 2009, and as a result he is disabled and no longer able to work. He indicates he has many medical bills and does not qualify for Medicare benefits. He relies on his children to support him financially. One of his sons is in the United States, but having both of his sons in the United States would provide him with additional financial assistance. He indicates further that he might suffer an untimely death without the applicant’s assistance.

Medical documentation reflects that in September 2009, the applicant’s father suffered a stroke and possible hemorrhage. According to his doctor, he “improved dramatically” in October 2009, though the examination showed decreased fine finger movements and he complained of some memory issues.

To show financial hardship, the applicant submits his father's medical bill statements and overdue medical bills. The record also contains a copy of the applicant's father's estimated Social Security benefits.

Upon review, the AAO finds the evidence in the record fails to establish the hardships faced by the applicant's father, considered in the aggregate, would rise above the common results of removal or inadmissibility to the level of extreme hardship if the applicant's father remained in the United States, separated from the applicant. Although the applicant's father indicates he would benefit from additional financial assistance from the applicant, the record does not establish that the applicant's father has, or would receive money from the applicant, or that his ability to pay medical bills and living expenses would change if the applicant moved to the United States. According to his response to a questionnaire during his January 22, 2010 consular interview about "plans if applicant is permitted to immigrate to the United States," he states, "first of all, I will like to apply for Master's degree, after that I'll apply for a job." The record also reflects the applicant's father has another adult son in the United States who may help him financially, and the record lacks evidence to corroborate the assertion that the applicant's father is disabled or unable to work, or that his health would be affected if the applicant were denied admission into the United States.

The applicant also failed to establish that his father would experience hardship that rises above that normally experienced upon removal or inadmissibility if he moved to Nigeria to be with the applicant. Evidence reflects the applicant's father's condition improved drastically after his stroke. The evidence fails to corroborate the claim that the stroke resulted in the applicant's father's becoming disabled. Moreover, the record lacks evidence establishing the applicant's father would be unable to obtain medical care in Nigeria. Financial hardship in Nigeria has also not been established. The record contains conflicting statements regarding the applicant's employment and financial status in Nigeria. The applicant states he is unemployed and unable to assist his father financially in Nigeria, yet during his 2010 consular interview, he stated on a questionnaire that he manages a palm oil mill owned by his parents there. In addition, the record reflects that the applicant's father is familiar with the language and culture in Nigeria, as he is from Nigeria and lived there until 2002, when he immigrated to the United States as the parent of a U.S. citizen child.

As the applicant has not established extreme hardship to a qualifying family member, no purpose would be served in determining whether the applicant 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. 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.