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

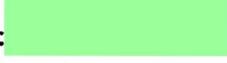


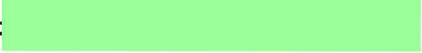
U.S. Citizenship  
and Immigration  
Services



DATE: **APR 08 2013**

OFFICE: HARTFORD, CONNECTICUT

File: 

IN RE: Applicant: 

APPLICATION: Application for Waiver of Grounds of Inadmissibility under § 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 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 with the field office or service center that originally decided your case by filing a 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;

A handwritten signature in black ink, appearing to read "Ron Rosenberg", with a long horizontal flourish extending to the right.

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office Director, Hartford, Connecticut and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Jamaica who was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for seeking to procure a visa, other documentation, or admission into the United States or other benefit provided under the Act by willful misrepresentation. 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 with his U.S. citizen spouse and stepson.

The field office director concluded that the applicant 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. *See Decision of the Field Office Director*, dated July 9, 2012.

On appeal counsel asserts that the applicant's U.S. citizen spouse will suffer extreme hardship if a waiver is not granted. *See Counsel's Appeal Brief*, received September 14, 2012.

The record contains, but is not limited to: Form I-290B and counsel's appeal brief; various immigration applications and petitions; two hardship affidavits; an affidavit from the applicant; medical records; business-related records; a bishop's letter; and documents related to the applicant's inadmissibility. The entire record was reviewed and considered in rendering this decision on 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.

The record shows that the applicant, a Jamaican citizen, has entered the United States multiple times through the Visa Waiver Program by presenting a photo-substituted United Kingdom passport bearing an identity not his own. The applicant most recently entered the United States in this manner on March 7, 2009 and has remained ever since. Based upon the foregoing, the applicant was found to be inadmissible under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i). The record supports this finding, the applicant does not contest inadmissibility, and the AAO concurs that the applicant is inadmissible under section 212(a)(6)(C) of the Act.

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

- (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [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 Attorney General [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.

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 the applicant or his children can be considered only insofar as it results in hardship to a qualifying relative. In the present case, the applicant's spouse is the only qualifying relative. 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 record reflects that the applicant’s spouse is a 39-year-old native of Jamaica and citizen of the United States who has been married to the applicant since August 2011. They have no children together but the applicant has three sons: [REDACTED] and [REDACTED] from prior relationships. The applicant’s spouse states that she has been unable to sleep, eat regularly, or focus on work since learning that the applicant’s waiver application was denied. She indicates that she has returned to [REDACTED] who changed her medication. The new medication is not identified by [REDACTED] or corroborated by any documentary evidence submitted on appeal. Going on record without supporting documentation is not sufficient to meet the applicant’s burden of proof in this proceeding. See *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). [REDACTED] wrote earlier that the applicant’s spouse has been under his care since 2005 for hypertension, and later for anxiety and depression. [REDACTED] notes that since her mother’s sudden death, the applicant’s spouse has had bouts of anxiety, a condition which has exacerbated after learning of the applicant’s possible deportation. A letter has been submitted on appeal from [REDACTED] who refers to the applicant’s spouse as his patient but does not indicate how long he has been treating her or for what conditions or symptoms. [REDACTED] maintains that current legal proceedings are causing the applicant’s spouse “a great deal of stress and emotional hardship,” and in his opinion “a great deal of her suffering can be abated if her legal situation can be helped in any way.” No foundation is offered for this opinion and no details concerning any evaluation, diagnostic testing, diagnosis, or treatment of the applicant by [REDACTED] have been provided.

The record shows that the applicant's spouse has been steadily employed full-time by [REDACTED] as a Certified Nurse's Assistant (CNA) since April 1988, earning \$17.10 per hour. It appears that the letter may contain a typo and the applicant's spouse was hired in April 1998 as she writes in October 2011 that she has worked for her employer for 12 years. The applicant's spouse states on appeal that the applicant recently opened a hair salon. On his Form G-325A, Biographic Information, dated September 12, 2011, the applicant indicates that he has been self-employed as a barber since April 2009 and lists his home address. The record shows that on June 11, 2012 the applicant signed a lease for a 348 square foot space in which to do business. Counsel contends that the applicant's spouse co-owns the salon which she risks losing if the applicant is removed. Business-related documents submitted for the record do not corroborate that the applicant's spouse has any ownership role or responsibility in the applicant's business. While the applicant's spouse indicates that the salon is growing more successful every day, corroborating financial documentation has not been submitted and she does not assert, nor does the record demonstrate, that the applicant's economic contribution to the household is significant or that she would be unable to support herself financially in his absence.

The applicant's spouse states that when her [REDACTED] is not attending school he visits the applicant at his shop and when she and the applicant are not working they spend virtually all their time with him. She asserts that [REDACTED] "is now going to the CT Children's Medical Center as a result of learning" that the applicant may have to return to Jamaica. The field office director specifically noted that while a report from the medical center indicates that [REDACTED] was treated for unspecified chest pain and a minor head injury it contains no indication that he was admitted for stress or for any reason related to the applicant's immigration status. This deficiency has not been addressed on appeal. As discussed above, hardship to the applicant's child can be considered only insofar as it results in hardship to a qualifying relative. The evidence in the record is insufficient to establish that [REDACTED] would suffer hardship as a result of separation from the applicant to a degree that substantially elevates hardship to the applicant's spouse.

While the AAO recognizes that the applicant's spouse has experienced anxiety and other difficulties related to the possibility of the applicant returning to Jamaica and that she may experience some reduction in overall income as a result of his absence, these difficulties have not been distinguished from those ordinarily associated with a loved one's inadmissibility. The AAO acknowledges that separation from the applicant would cause various challenges for the applicant's spouse. However, it finds the evidence in the record insufficient to demonstrate that the challenges encountered by the qualifying relative, when considered cumulatively, meet the extreme hardship standard.

Addressing relocation, the applicant's spouse indicates that she immigrated to the United States with her family when she was 13-years-old and while both parents have since passed away, her three U.S. citizen sons and other family members still reside here. The applicant's spouse notes that she enjoys steady employment of more than 12 years with the same employer in the United States, employment she would lose were she to relocate to Jamaica. She states that she has "looked into the possibility of securing employment in Jamaica, which would allow us to have a livable wage." The applicant's spouse writes that such jobs do not exist and she has "been told"

it would take a substantial time period before she would be permitted to work legally in Jamaica. It is noted in a report submitted by the applicant that Jamaica allows for dual nationality. The applicant's spouse is a native of Jamaica and no corroborating documentary evidence has been submitted demonstrating any limitations on her ability to work legally in the country. While the U.S. State Department's "Jamaica Country Specific Information" and several crime-related articles and discussion threads have been submitted, neither Jamaica's economy nor any issues related to employment or customary wages in the country are addressed therein. The applicant's spouse adds that public education is extremely limited in Jamaica and to uproot [REDACTED] "to a new culture and new experience without sufficient funds to allow him to enjoy a proper education would be devastating to him." The record contains no documentary evidence addressing education in Jamaica. The applicant's spouse explains that the applicant "grew up in the ghetto in Jamaica" and where his family lives in Kingston is known for crime and low educational and economic opportunities. While corroborating evidence has not been submitted for the latter, the State Department report shows that: "Crime, including violent crime, is a serious problem in Jamaica, particularly in Kingston and Montego Bay." It also notes that armed robberies of U.S. citizens have sometimes turned violent when the victims resisted handing over valuables.

The AAO has considered cumulatively all assertions of relocation-related hardship to the applicant's spouse including her adjustment to a country in which she has not resided for more than 25 years and where her minor son has never lived; her lengthy residence in the United States; family ties to the United States – particularly to her three U.S. citizen sons; community, church and employment-related ties; long-term steady employment with the same employer; and stated economic, employment, education, and safety concerns about Jamaica. While not insignificant, the AAO finds that, considered in the aggregate, the evidence is insufficient to demonstrate that the applicant's U.S. citizen spouse would suffer extreme hardship were she to relocate to Jamaica to be with the applicant.

The applicant has, therefore, failed to demonstrate that the challenges his spouse faces are unusual or beyond the common results of removal or inadmissibility to the level of extreme hardship. Accordingly, the AAO finds that the applicant has failed to demonstrate extreme hardship to a qualifying relative. 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. *See Matter of Mendez-Morales, Id.*

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.