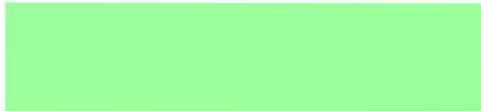




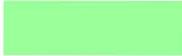
**U.S. Citizenship  
and Immigration  
Services**

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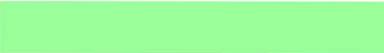


DATE: **SEP 23 2013**

Office: BALTIMORE, MD

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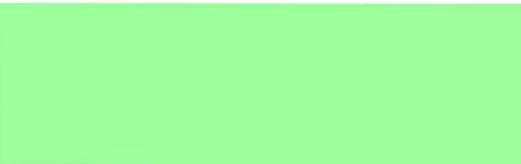
IN RE:

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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink that reads "Ron Rosenberg".

Ron Rosenberg

Chief, Administrative Appeals Office

**DISCUSSION:** The District Director, Baltimore, Maryland, denied the waiver application and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The applicant is a native and citizen of Liberia 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 married to a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act in order to reside with his wife and children in the United States.

The district director found that the applicant failed to establish extreme hardship to a qualifying relative and denied the application accordingly.

On appeal, counsel contends the applicant established extreme hardship to his wife, particularly considering her persistent and recurring psychological disorder and her prolonged struggle with mental health.

The record contains, *inter alia*: a copy of the marriage certificate of the applicant and his wife, [REDACTED] indicating they were married on September 16, 2002; a copy of the birth certificate of the couple's U.S. citizen child; letters from [REDACTED] letters from a social worker; psychological evaluations; letters from employers; copies of pay stubs, tax returns, and other financial documents; articles addressing country conditions in Liberia; photographs of the applicant and his family; and an approved Petition for Alien Relative (Form I-130). 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 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, and counsel concedes, that in December 1996, the applicant attempted to enter the United States using a fraudulent passport. Therefore, 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 wife, [REDACTED], states that she met her husband when she was twenty years old, when she already had children and needed a good male role model in their lives. She states that her husband helps a lot with her children and that she was able to go back to school. In addition, [REDACTED] contends she has been seeing a therapist due to stress and depression. She contends that she is having a very hard time coping financially and mentally.

After a careful review of the entire record, the AAO finds that if the applicant's wife, [REDACTED] relocated to Liberia to be with her husband, she would experience extreme hardship. The record contains several letters and evaluations from mental health professionals addressing [REDACTED] significant post-traumatic stress disorder, major depression, anxiety, and severe mood disorder. According to a psychological evaluation in the record, [REDACTED] was raised by her mother, never knew her father, and became pregnant with her first child when she was thirteen years old. She reportedly dropped out of school after eighth grade, moved out of the house, was in two physically abusive relationships, and had two children whose fathers have never been involved, before meeting her current husband, the applicant. The evaluations contend that after the couple married, [REDACTED] went back to school to obtain her GED and has since received her B.A. as well as M.B.A. The evaluations describe that [REDACTED] was first diagnosed with depression at the age of eighteen, began seeing a therapist regularly when she became pregnant with the couple's child, and continues to see her therapist and take anti-depressant medication. A letter from a social worker describes the extent of [REDACTED] problems, contending she "is an individual with a severe physical, intellectual, or psychological disability that qualifies him/her for consideration . . . [as a Person] with Disabilities." The AAO recognizes that relocating to Liberia would disrupt the continuity of mental health care that [REDACTED] has been regularly receiving since 2010. Furthermore, the AAO acknowledges that [REDACTED] was born in the United States and, according to a social worker, she and her children have never lived outside of the United States. [REDACTED] would need to adjust to living in Liberia after having lived her entire life in the United States, a difficult situation made even more complicated by her mental health problems. Moreover, the record contains evidence addressing country conditions in Liberia and the AAO takes administrative notice that the U.S. Department of State describes Liberia as one of the poorest countries in the world that lacks many basic services, such as public power, water and sewage, and where crime is high and petty corruption rampant. In addition, medical facilities are reportedly very poorly equipped and medicines are scarce and generally unavailable. *U.S. Department of State, Country Specific Information*, dated April 5, 2013. Considering all of these factors cumulatively, the AAO finds that the hardship [REDACTED] would experience if she relocated to Liberia to be with her husband is extreme, going well beyond those hardships ordinarily associated with inadmissibility or exclusion.

The AAO also finds that if the applicant's wife remains in the United States without her husband, she would suffer extreme hardship. As stated above, the record contains ample documentation

(b)(6)

addressing [REDACTED] on-going, serious mental health problems. According to one of the psychological evaluations in the record, [REDACTED] describes her husband as her soul-mate and has had suicidal thoughts. The record also contains evidence that [REDACTED] has not had stable employment and that the applicant works as a delivery driver, earning a net business income of \$14,713 to help support his family. In addition, the record shows that [REDACTED] mother has her own health problems and is in arrears paying her own bills. The AAO acknowledges the difficulties [REDACTED] would experience as a single parent to three children with no assistance from family. Considering these unique circumstances cumulatively, the AAO finds that the hardship the applicant's wife would experience if she remains in the United States is extreme, going beyond those hardships ordinarily associated with inadmissibility.

The AAO also finds that the applicant merits a waiver of inadmissibility as a matter of discretion.

In discretionary matters, the alien bears the burden of proving that positive factors are not outweighed by adverse factors. *See Matter of T-S-Y-*, 7 I&N Dec. 582 (BIA 1957). The adverse factors in the present case include: the applicant's misrepresentation of a material fact to procure an immigration benefit and periods of unauthorized presence and employment. The favorable and mitigating factors in the present case include: the applicant's significant family ties to the United States, including his U.S. citizen wife and three U.S. citizen children; the extreme hardship to the applicant's family if he were refused admission; a letter of support from [REDACTED] mother describing the applicant as a wonderful father to all three children and a strong support for his wife; a letter from the applicant's employer describing him as very dependable and trustworthy; and the applicant's lack of any criminal convictions.

The AAO finds that, although the applicant's immigration violations are serious and cannot be condoned, when taken together, the favorable factors in the present case outweigh the adverse factors, such that a favorable exercise of discretion is warranted. Accordingly, the appeal will be sustained.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has been met.

**ORDER:** The appeal is sustained.