



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

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF I-A-M-

DATE: NOV. 12, 2015

APPEAL OF HARTFORD FIELD OFFICE DECISION

APPLICATION: FORM I-601, APPLICATION FOR WAIVER OF GROUNDS OF  
INADMISSIBILITY

The Applicant, a native and citizen of Ghana, seeks a waiver of inadmissibility. *See* Immigration and Nationality Act (the Act) § 212(i), 8 U.S.C. § 1182(i). The Director of the Hartford, Connecticut Field Office denied the application. The matter is now before us on appeal. The appeal will be dismissed.

The Applicant was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for procuring admission into the country by using a passport that was not his, and for seeking to procure an immigration benefit by fraud or willful misrepresentation of a material fact. The Applicant is the beneficiary of an approved Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, pursuant to the Violence Against Women Act (VAWA). He has applied to adjust his status under section 245 of the Act, 8 U.S.C. § 1255, and he concurrently filed a Form I-601, Application for Waiver of Grounds of Inadmissibility, pursuant to section 212(i) of the Act in order to waive this ground of inadmissibility.

In a decision dated September 22, 2014, the Director determined that the record contained insufficient evidence to establish that the Applicant or a qualifying relative would suffer extreme hardship if the Applicant were denied admission into the United States. The Director also determined that the Applicant did not demonstrate that a favorable exercise of discretion is warranted in his case. The Form I-601 was denied accordingly.

On appeal, the Applicant asserts that the cumulative evidence in the record demonstrates that he would experience extreme hardship if he is denied admission into the United States and that a favorable exercise of discretion is merited in his case. In support of these assertions the record includes, but is not limited to, financial and medical documentation, psychological evaluation evidence, information pertaining to the Applicant's education, employment information, and country conditions evidence. The entire record was reviewed and considered in arriving at a decision on the appeal.

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

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 chapter is inadmissible.

Section 212(i) of the Act provides a waiver for fraud and material misrepresentation, and states:

(1) The Attorney General [now the Secretary of Homeland Security (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 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.

The Applicant does not contest that he entered the United States in 2001 with a passport that was not his. Further, in a March 25, 2014, sworn statement, the Applicant stated that he gained admission into the United States in 2001 by using a passport that was not his. Accordingly, the Applicant is inadmissible under section 212(a)(6)(C)(i) of the Act, for procuring admission into the country through fraud or misrepresentation of a material fact.

Although the Applicant does not contest that he used someone else's passport to gain entry into the United States, he contests the Director's determination that his statement that he was not related to the person whose passport he used to enter, which he made during his adjustment of status interview, was false. The Applicant maintains that although the Director determined the passport belonged to his brother, the passport in fact belonged to another individual who has the same name as his brother.

As the Applicant is inadmissible under section 212(a)(6)(C)(i) of the Act based on his use of someone else's passport to gain entry to the United States, regardless of the identity of the passport holder, we need not determine whether the Applicant misrepresented the identity of the passport holder or whether this would constitute a material misrepresentation.

As the applicant is a VAWA self-petitioner, 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 individual, which includes the Applicant or the U.S. citizen, lawfully resident or qualified parent or child of the Applicant. If extreme hardship to a qualifying individual is established, the Applicant is eligible for a waiver, and we 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 of Immigration Appeals (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 v. INS*, 138 F.3d 1292, 1293 (9<sup>th</sup> Cir. 1998) (quoting *Contreras-Buenfil v. INS*, 712 F.2d 401, 403 (9<sup>th</sup> 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 the present matter, the Applicant does not have a United States citizen, lawful permanent resident, or qualified parent or child. Accordingly, only the Applicant is a qualifying individual for section 212(i)

waiver of inadmissibility purposes. The Applicant asserts that the cumulative evidence in the record demonstrates that he would experience extreme hardship if he is denied admission into the country. In support of these assertions, the record contains financial and medical documentation, psychological evaluation evidence, information pertaining to the Applicant's education, employment information, and country conditions evidence.

The Form I-601 and appeal do not contain statements from the Applicant discussing the hardship that he would experience if he were denied admission into the United States. The Applicant indicates in the March 25, 2014, sworn statement taken at his adjustment of status interview, however, that he has employment expertise as a certified nurse aide and as a machine operator, and that there are no jobs in these employment fields in Ghana. Counsel for the Applicant also indicates in an appeal brief that the Applicant would suffer loss of his employment if he is denied admission into the United States and that he would suffer financial hardship in Ghana.

In addition, an April 6, 2014, psychological assessment from a licensed clinical social worker reflects that the Applicant indicated to him that he was treated for depression and anxiety in the past, and that he was experiencing anxiety, weight loss, and difficulty sleeping due to the possibility of his removal to Ghana. The psychological assessment reflects that the Applicant also expressed concerns about losing his job, housing, and life in the United States, and that he indicated it would be difficult to find work in Ghana and he would be unable to pay his bills in the United States or support himself in Ghana. According to the psychological assessment, the Applicant reported that he financially supports his daughter and other family members in Ghana, he is their only source of income, and he would no longer be able to support them if he returned to Ghana. The therapist noted the Applicant's statements that he sometimes finds it extremely difficult to go to work, and that his symptoms have also affected other areas of his life. The therapist also noted that the Applicant reported thoughts of suicide but assured him that these were only thoughts, and he had made no concrete plans to hurt himself. The therapist concluded that the Applicant's symptoms and history meet the diagnostic criteria for recurrent major depressive disorder with anxiety, and he recommended talk and medication therapy.

The record also contains a June 3, 2011, psychiatric evaluation reflecting that the Applicant was diagnosed with adjustment disorder with mixed anxious and depressed mood based on difficulties dealing with marital issues and his inability to visit his family of origin due to his immigration status. There is also evidence on the record that, at that time, the Applicant was prescribed medication for his symptoms.

The psychological evaluations demonstrate that the Applicant would likely experience emotional hardship if he were to return to Ghana, but do not establish the severity of this hardship. The evidence does not specify how the Applicant's psychological condition has affected his daily activities in the United States or provide detail about the severity of his current condition. The evidence in the present case does not demonstrate that any emotional hardship the Applicant would experience if he is denied admission into the country would be beyond that commonly experienced as a result of inadmissibility and removal.

Although a medical letter dated May 5, 2014, reflects that the Applicant tested “PPD positive” and that he was prescribed medication to be taken once a day for nine months, the letter does not explain the nature of this condition, how it affected the Applicant, or the effect of the prescribed medicine. Further, the Applicant states in the March 25, 2014, sworn statement taken at his adjustment of status interview that he has no health issues.

Financial documentation in the record includes copies of the Applicant’s 2012 and 2013 IRS Form 1040A, U.S. Individual Income Tax Returns, and his related W-2, Wage and Tax Statements. The documents reflect that the Applicant earned \$38,054.00 working as a caregiver for two health care centers in 2012, and that he earned \$39,403.00 in 2013 through his employment at the health care centers and as a machine operator for a technology company.<sup>1</sup> A March 14, 2013, letter from a staffing consultant at an employment agency reflects that the Applicant obtained a long-term temporary hire opportunity as a machine operator through their agency.

The record also reflects that the Applicant completed a two-week nurse’s aide program in June 2009 and that he enrolled in machinery classes at a community college in March 2013. The record also contains evidence that the Applicant was awarded a high school diploma on May 21, 2012, based on General Educational Development test results.

The evidence reflects that the Applicant has taken nurse aide and machine operator classes, he was employed as a caregiver in 2012 and 2013, and he has worked as a machine operator since 2013. The evidence does not, however, reflect that the Applicant has an established or long-standing career in either field. The record also lacks evidence to corroborate assertions that the Applicant would be unable to find work in these fields in Ghana. The record contains an article providing general information on the history, geography, government structure, and economic sectors and industries in Ghana. The article does not demonstrate that the Applicant would be unable to find employment in Ghana.

The evidence also does not corroborate assertions that the Applicant would experience hardship if he returned to Ghana due to an inability to pay debts in the United States. The record contains evidence that on March 1, 2013, the Applicant was charged \$1488.00 for courses at the community college. This evidence does not, however, establish that the Applicant still has an outstanding debt for these expenses. Moreover, the record contains 2013 and 2014 bank statements for the Applicant reflecting bank balances in the amount of \$5315.00 and above. The record also lacks any evidence to corroborate assertions that the Applicant’s family in Ghana financially depends on the Applicant.

Upon review, the Applicant has provided insufficient evidence to demonstrate that he would experience extreme hardship if he is denied admission to the United States and he returns to Ghana. The record reflects that the Applicant was born in Ghana and resided there until he was 35 years old and that the Applicant’s daughter, sister, aunts and uncles are in Ghana. *See March 25, 2014, Sworn Statement from the Applicant.* The evidence is insufficient to demonstrate that the Applicant’s family is financially

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<sup>1</sup> The Applicant’s Form G325A, Biographic Information form reflects that the Applicant worked as a machine operator at the technology company between July and December 2013.

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dependent on the Applicant in Ghana, and the evidence does not reflect that the Applicant would be unable to find employment in Ghana, or that he would experience financial or professional hardship beyond that normally experienced upon inadmissibility and deportation if he returned. The evidence also does not demonstrate that the Applicant would experience extreme emotional hardship if he returns to Ghana.

Considering the evidence in the aggregate, the record is insufficient to establish that the Applicant would suffer hardship beyond that normally experienced upon inadmissibility and deportation if he is denied admission into the United States and he returns to Ghana. The Applicant has therefore not established extreme hardship to a qualifying individual, as required under section 212(i) of the Act. Having found the Applicant ineligible for relief, we find no purpose would be served in discussing whether the Applicant merits a waiver as a matter of discretion.

In application proceedings, it is the Applicant's burden to establish eligibility for the immigration benefit sought. *See* section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER:** The appeal is dismissed.

Cite as *Matter of I-A-M-*, ID# 13016 (AAO Nov. 12, 2015)