U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF G-T-N-

DATE: SEPT. 9, 2015

APPEAL OF NEWARK 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 (INA, or the Act) § 212(i), 8 U.S.C. § 1182(i). The Field Office Director, Newark, New Jersey, denied the application. The matter is now before us on appeal. The appeal will be dismissed.

The Field Office Director found that the Applicant had not established that her qualifying relative would experience extreme hardship as a consequence of her inadmissibility. The Form I-601, Application for Waiver of Grounds of Inadmissibility, was denied accordingly. *See Decision of the Field Office Director* dated November 24, 2014.

On appeal the Applicant contends the decision was in error because her spouse would experience extreme hardship if he were to stay in the United States without her or alternatively, if he relocated to Ghana. With the appeal the Applicant submits a brief. 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:

> (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.

Section 212(i) of the Act provides that:

> 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.

The record reflects that the Applicant entered the United States on September 18, 2002, as a B-1 visitor. The record further reflects that when applying for a visa the Applicant indicated on Form DS-156 that she was married when in fact at the time she had never been married. Based on this information the Field Office Director determined the Applicant to be inadmissible under section 212(a)(6)(C) of the Act for fraud or misrepresentation. The Applicant does not contest this inadmissibility determination on appeal.

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. The Applicant's spouse is the only qualifying relative in this case. 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-Moralez,* 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. *Salcido-Salcido v. INS*, 138 F.3d 1292, 1293 (9th Cir. 1998) (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 asserts that her spouse relies on her physically and emotionally and that he has limited skills to support himself. In his affidavit, dated November 5, 2013, the Applicant's spouse states that he would be lonely and depressed without the Applicant and that life would be meaningless. He contends that the Applicant cooks, cleans, and washes clothes.

A psychological evaluation of the Applicant's spouse, dated August 22, 2013, concludes that he is likely to experience significant depression, anxiety, and feelings of helplessness and to suffer socially, physically, economically, and sexually without the Applicant. The evaluation states that the spouse reports that he loves the Applicant, that she is his best friend, that they do everything together, and that he does not believe he is able to live without her. The evaluation further outlines that the spouse reports the Applicant saved his life when he was sick and that he does not do a good job caring for himself as the Applicant performs the daily tasks of cooking, cleaning, laundry, and anticipating his needs.

While the record establishes the Applicant's spouse would experience some emotional hardship due to separation, the record does not establish that the hardships the spouse would experience are beyond the hardships normally associated when a spouse is found to be inadmissible. While we acknowledge the contentions in the record that the Applicant's spouse will experience emotional hardship were he to remain in the United States while his wife relocates abroad, the record does not establish the severity of this hardship or the effects on his daily life. Nor has it been established that the Applicant's spouse would be unable to travel to Ghana to visit the Applicant as the spouse indicates that he has traveled to Ghana for visits.

The spouse further asserts that the Applicant saved his life three times, first in 2007 when he was hospitalized with pneumonia and later when he had appendicitis and a growth in his intestine that had perforated the intestinal wall, because she forced him to go to hospital and stayed with him

there. The Applicant maintains that she fears if they are separated, her spouse would not survive another episode of illness. Medical records indicate that in April 2008 the Applicant's spouse had an appendectomy and right hemicolectomy and that he had pneumonia two years before his 2008 surgery. The records include medical records and lab results, but there is no explanation from a treating physician describing any current condition, prognosis, or treatment for the spouse that would require the Applicant's physical presence in the United States.

The Applicant and her spouse also state that the Applicant provides financially for the spouse, whom the Applicant contends can barely sustain himself and his daughter and is barely above the poverty level. The Applicant maintains that her spouse has only part time, seasonal employment, but no stable, long term employment and relies primarily on her.

Financial documentation submitted to the record includes bank statements, utility bills, a lease agreement covering March 2009 to June 2012, a letter dated March 6, 2014, from the spouse's employer stating that he has been employed since September 2013 and probably will continue, a letter dated March 10, 2014, from the Applicant's employer and receipts related to her employment, and a 2012 income tax return for the spouse. The letter from the spouse's employer does not indicate a salary or whether the position is full or part time, and the record contains no documentation, other than two bank statements listing payroll deposits, to establish the spouse's current income or the expenses related to the spouse's daughter referenced by the Applicant.

Although the record shows that the spouse would endure some financial hardship as the result of separation from the Applicant, the record does not establish that the hardships he would face, considered in the aggregate, rise to the level of "extreme." Further, courts considering the impact of financial detriment on a finding of extreme hardship have repeatedly held that, while it must be considered in the overall determination, "[e]conomic disadvantage alone does not constitute "extreme hardship." *Ramirez-Durazo v. INS*, 794 F.2d 491, 497 (9th Cir. 1986).

We find that the record does not establish that the Applicant's spouse will suffer extreme hardship as a consequence of being separated from the applicant. We recognize that the Applicant's spouse will endure some hardship as a result of long-term separation from the applicant. However, his situation if he remains in the United States is typical to individuals separated as a result of removal and does not rise to the level of extreme hardship based on the record

We also find that the record fails to establish that the Applicant's spouse would experience extreme hardship if he were to relocate to Ghana to reside with the applicant. On appeal the Applicant asserts that although a country report submitted to the record shows Ghana is experiencing economic growth, it also states that the country has persistent development challenges and rural areas have failed to achieve similar reductions in poverty as the national level. The Applicant asserts that the economy in Ghana would not allow her to find employment in private home health care and that her spouse would also be unable to find employment with his limited skills. The spouse asserts that he has been away from Ghana for many years and has no job skills. The psychological evaluation also states that the spouse reports concern for their economic situation because of the Applicant's limited employment prospects in Ghana.

The Applicant submitted a U.S. Agency for International Development (USAID) report, dated December 2012, that notes positive economic growth in Ghana but also indicates persistent challenges and states that the north lags behind the south and the private sector is inadequate to absorb a growing labor force. The report describes general conditions in Ghana, and the record does not indicate how such conditions would affect the applicant's spouse specifically. Nor does the record establish that the Applicant and her spouse do not have transferable skills they could deploy in Ghana.

The Applicant states that a daughter died in Ghana due to an illness the doctors could not cure and the spouse states that he fears he also would die due to the inadequacy of medical care. Reports submitted by the Applicant note challenges in the health sector that include access and quality and exclusion of many from national health insurance. According to the U.S. Department of State, medical facilities in Ghana are limited, particularly outside the capital, Accra. *U.S. Department of State, Bureau of Consular Affairs – Ghana,* dated July 18, 2014. Significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate, are relevant factors in establishing extreme hardship. However, the evidence in the record is insufficient to establish that the Applicant's spouse suffers from such a condition.

The spouse asserts that Ghana is dangerous and that on visits there he has heard stories of people getting killed. The psychological evaluation states that the spouse reports a concern for political instability in Ghana where there is a history of volatility and that it is a dangerous environment not properly policed. The U.S. Department of State recommends that due to the potential for violence, U.S. citizens should avoid political rallies, and it states that pick-pocketing, purse-snatching, and various types of scams are the most common forms of crime confronting visitors, but that incidences of violent crime are on the rise. *U.S. Department of State, Bureau of Consular Affairs – Ghana*, dated July 18, 2014. The submitted country conditions information does not establish that the applicant's spouse would be at risk as a result of crime or violence. There are no current travel advisories for Ghana, and the record does not address specifically where the Applicant would reside.

The Applicant's spouse states that he has been gone from Ghana for more than 20 years, he is accustomed to American life, and he has petitioned for his children living in Ghana, so soon no one will be there. The Applicant states that her parents and a daughter are dead, her family house burned to the ground, and her siblings scattered, so she has no friends or immediate family there. However, the record does not establish that the Applicant and her spouse would be unable to receive assistance from family upon relocation to Ghana, and the record indicates that the Applicant has family, including adult children, living there.

In this case, the record does not contain sufficient evidence to show that the hardships faced by the Applicant's spouse, considered in the aggregate, would rise beyond the common results of removal or inadmissibility to the level of extreme hardship. We therefore find that the record fails to establish extreme hardship to a qualifying relative as required under section 212(i) of the Act. 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 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 not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of G-T-N-*, ID #12367 (AAO Sept. 9, 2015)