U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF A-N-T-

DATE: FEB. 18, 2016

APPEAL OF BALTIMORE 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 Field Officer Director, Baltimore, Maryland, denied the application. The matter is now before us on appeal. The appeal will be dismissed.

In a decision dated February 5, 2015, the Director determined that the Applicant had not met his burden of demonstrating that the denial of his Form I-601 would result in extreme hardship to his U.S. citizen spouse.

On appeal, the Applicant asserts that his spouse would suffer extreme hardship upon separation, as she needs his assistance with her medical conditions and his financial contributions toward their expenses, and she would suffer psychological and emotional distress in his absence. The Applicant also asserts that his spouse would suffer extreme hardship upon relocation to Ghana as the medical treatment facilities there are not comparable to the United States, and she would leave behind her property, family members, and employment for negative country conditions in Ghana.

In support of the waiver application and appeal, the Applicant submitted identity documents, affidavits from himself and family members, family photographs, financial documentation, and medical records for his spouse, in addition to other documentation. The entire record was reviewed and considered in rendering a decision on the appeal.

Section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), provides:

> 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 reflects that on May 18, 2002, the Applicant attempted to procure admission into the United States under the visa waiver program with a passport bearing the name of another individual. The Applicant is therefore inadmissible under section 212(a)(6)(C)(i) of the Act for attempting to

procure admission into the United States through fraud or misrepresentation. The Applicant does not dispute this ground of inadmissibility on appeal.

Section 212(i)(1) of the Act, 8 U.S.C. § 1182(i)(1), provides that section 212(a)(6)(C)(i) inadmissibility may be waived as a matter of discretion for

> 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 . . . that the refusal of admission . . . 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 must demonstrate that denial of the application would result in extreme hardship to a qualifying relative or relatives. In this case, the qualifying relative is his U.S. citizen spouse. Hardship to the applicant or others can be considered only insofar as it results in hardship to a qualifying relative. *Matter of Gonzalez Recinas*, 23 I&N Dec. 467, 471 (BIA 2002).

The definition of extreme hardship "is not . . . fixed and inflexible, and the elements to establish extreme hardship are dependent upon the facts and circumstances of each case." *Matter of Cervantes-Gonzalez,* 22 I&N Dec. 560, 565 (BIA 1999) (citation omitted). Extreme hardship exists "only in cases of great actual and prospective injury," *Matter of Ngai,* 19 I&N Dec. 245, 246-47 (BIA 1984), but hardship "need not be unique to be extreme." *Matter of L-O-G-*, 21 I&N Dec. 413, 418 (BIA 1996). The common consequences of removal or refusal of admission, which include "economic detriment . . . [,] loss of current employment, the inability to maintain one's standard of living or to pursue a chosen profession, separation from a family member, [and] cultural readjustment," are insufficient alone to constitute extreme hardship. *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996) (citations omitted); *see also Matter of Shaughnessy,* 12 I&N Dec. 810 (BIA 1968) (separation of family members and financial difficulties alone do not establish extreme hardship); *but see Matter of Kao and Lin*, 23 I&N Dec. 45, 51 (BIA 2001) (distinguishing *Matter of Pilch* 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 the qualifying relatives would relocate). Nevertheless, all "[r]elevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists." *Matter of Ige*, 20 I&N Dec. 880, 882 (BIA 1994) (citations omitted).

The Applicant's spouse asserts that the current state of her health is extremely unstable, so she depends on the Applicant to take care of her and their son as she battles with her health issues. The Applicant's spouse contends that the Applicant's presence and financial support allow her to work fewer hours whenever her health crises arise. The record contains medical records for the Applicant's spouse including a diagnosis for hypertension from an emergency room visit in August 2013, and documents from her pregnancy and delivery. However, the medical documents consist largely of medical notes and do not contain a clear explanation of the current medical condition of

the Applicant's spouse. Absent an explanation in plain language from the treating physician of the exact nature and severity of any condition and a description of any treatment or family assistance needed, we are not in the position to reach conclusions concerning the severity of a medical condition or the treatment needed.

The Applicant's spouse asserts that she and the Applicant are barely making it, financially, and were constantly behind on their bills until the Applicant began working. The Applicant mentions credit card bills, his spouse's student loans, and a car note in regard to financial obligations. The Applicant's spouse contends that they modified their home loan after falling behind on mortgage payments, borrowed from her 401k to make ends meet, and she has an outstanding loan in default. Counsel also mentions a home repair loan as a financial obligation. The record contains loan modification paperwork for the Applicant's spouse's property, banking information, and bills from The record does not contain an accounting of the Applicant's family's monthly expenses or recent tax returns for the Applicant or his spouse. The record does not contain supporting documentary evidence of the financial obligations referred to above, other than the loan modification paperwork. There is no supporting documentation indicating when the Applicant began employment at his current position. The record contains a 2011 tax return for the Applicant's spouse alone indicating a total income of 97,365 dollars. The Applicant's spouse asserts that she also provides financial support to her mother, who resides with her, and to her father. The Applicant's spouse's mother submitted an affidavit asserting that she is employed as a certified nursing assistant, but the record does not contain tax records for her and there is no information concerning whether she financially contributes to the household. Overall, the evidence is insufficient to establish that the Applicant's spouse would be unable to meet her financial obligations in the absence of the Applicant.

The Applicant's spouse asserts that the Applicant is a great support system for her and his departure would lead to severe psychological distress for herself and their son. The Applicant's spouse further asserts that she would experience emotional loss upon separation from the Applicant, and this loss would be aggravated by the pain their son would suffer without his father. She details their son's closeness to the Applicant. It is noted that the Applicant's son is not a qualifying relative in the context of this application so that any hardship he would suffer will be considered only insofar as it affects the Applicant's spouse. It is also noted that the record reflects that the Applicant, his spouse, and the Applicant's spouse's mother are all currently employed. As such, the identity of the present caretaker for the Applicant's two-year-old son is not clear.

It is acknowledged that separation from a spouse often creates hardship for both parties, and the evidence indicates that the Applicant's spouse would suffer hardship due to separation from the Applicant. However, there is insufficient evidence in the record, in the aggregate, to find that the Applicant's spouse would suffer extreme hardship upon separation from the Applicant.

Counsel asserts that the Applicant and his spouse would have difficulty selling their house in the current housing climate, which would result in financial loss. The record does not include supporting documentary evidence as it relates to this claim. The Applicant's spouse asserts that she cannot relocate to Ghana because the economic status in that country is not very promising. The

Applicant's spouse contends that it would be nearly impossible for the Applicant to secure a position and support his family. She further contends that she would be unable to continue her own pharmaceutical practice in Ghana without returning to school for two years to receive certification. The record contains the Applicant's Form G-325A, Biographic Information, which indicates that he was employed as a teacher and coach in Ghana for over three years. There is no indication that the Applicant would be unable to secure similar employment upon his return, or that his spouse would experience financial hardship if obtained this type of employment. Further, the record does not contain supporting documentation for the Applicant's spouse's assertion that she, as a currently practicing pharmacist in the United States, would be unable to practice in Ghana without two further years of schooling.

The Applicant's spouse asserts that she and her close family members, including immediate and distant family members, reside in the United States, which has been their home for many years. The Applicant's spouse contends that she and her siblings provide all kinds of support to one another and she cannot imagine being away from them. The Applicant's Form G-325A indicates that she is a native of Ghana. There is no information concerning whether other relatives of the Applicant's spouse also reside in Ghana. The record contains affidavits of support submitted by the Applicant's spouse's mother, father, brother, and sister. It is noted that the Applicant's spouse's mother's affidavit asserts that the Applicant's spouse provides her with shelter and other necessities. As noted previously, the record does not contain financial documentation for the Applicant's spouse's mother, and as such, the extent to which she requires financial assistance is not clear. It is also unclear how much she financially supports her father. There is also no information concerning the extent to which the Applicant's spouse's siblings and other relatives residing in the U.S. could provide her mother and father with financial support, as necessary.

The Applicant's spouse states that their child would be denied education, healthcare, and other benefits of living in the United States. The Applicant asserts that his spouse would suffer from a lower standard of medical treatment upon relocation to Ghana and have to endure other negative country conditions. The record is not clear concerning what medical treatment the Applicant's spouse currently requires and does not contain information that she would be unable to obtain any necessary treatment for any existing medical conditions upon relocation. The Applicant states that there are massive layoffs and a severe food crisis in Ghana. The record also does not contain background country condition information for Ghana related to financial issues or otherwise. Going on record without supporting documentary evidence generally is not sufficient for purposes of meeting the burden of proof in these proceedings. *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)).

There is insufficient evidence in the record to show that the hardships faced by the Applicant's spouse, in the aggregate, would rise to the level of extreme hardship if she relocated to Ghana. As the Applicant has not demonstrated extreme hardship to a qualifying relative, we need not consider whether the Applicant warrants a waiver in the exercise of discretion

The Applicant has the burden of proving eligibility for a waiver of inadmissibility. *See* section 291 of the Act, 8 U.S.C. § 1361. The Applicant has not met that burden. Accordingly, we dismiss the appeal.

ORDER: The appeal is dismissed.

Cite as *Matter of A-N-T-*, ID# 15320 (AAO Feb. 18, 2016)