



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

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

MATTER OF M-D-A-S-

DATE: JAN. 28, 2016

APPEAL OF BOSTON FIELD OFFICE DECISION

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

The Applicant, a native of Togo and citizen of Benin, seeks a waiver of inadmissibility. *See* Immigration and Nationality Act (the Act) § 212(i), 8 U.S.C. § 1182(i). The Field Office Director, Boston, Massachusetts, 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 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 procuring a nonimmigrant visa and entry to the United States through fraud or misrepresentation. The Applicant is the beneficiary of an approved Form I-130, Petition for Alien Relative, and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act to remain in the United States with her U.S. citizen spouse.

In a decision dated April 15, 2015, the 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 Wavier of Grounds of Inadmissibility, was denied accordingly.

On appeal, the Applicant asserts that the Director erred in not finding that she had established extreme hardship to her U.S. citizen spouse. In support, the Applicant submits a brief, financial and employment documentation, support letters, and country information for Togo. The entire record was reviewed and considered in rendering this decision.

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.

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.

The record reflects that in December 2011, the Applicant indicated on her nonimmigrant visa application that her spouse resided with her in Benin and that she intended to visit friends in the United States. The record establishes, however, that at that time, the Applicant's spouse was a lawful permanent resident residing in the United States and the address listed on the Applicant's nonimmigrant visa application that she claimed was her friend's address was in reality her husband's address. The Applicant subsequently entered the United States as a B-2 visitor on May 21, 2012. Based on this information the Director determined that the Applicant was inadmissible for fraud or misrepresentation. On appeal the Applicant does not dispute the finding that she is inadmissible under section 212(a)(6)(C)(i) of the Act for procuring a nonimmigrant visa and subsequent entry to the United States through fraud or misrepresentation.

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 the Applicant's 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 asserts that her spouse will experience trauma and their marriage would be in jeopardy were he to remain in the United States while she relocates abroad. She states that she has known her husband since they were children, and that they reconnected via telephone and Internet before marrying in 2009. She references that her spouse was traumatized by events in Togo, that he

is slowly rebuilding his life with her by his side, and that he needs daily attention, love, and support. The Applicant contends that her spouse is a torture survivor whose journey to stronger mental health has largely been guided by her since her arrival in the United States. She maintains that her spouse could not sleep or eat, would wake up screaming, and cried frequently, but that he has improved with her support because she is the only one with whom he found comfort. The Applicant asserts that they want to have children but have medical issues for which they are currently being treated. The Applicant further states that she contributes financially through her job and that her spouse would be traumatized without her and his ability to earn a living would be affected.

In his affidavit the Applicant's spouse describes the persecution and torture he experienced in Togo that led him in 2002 to flee to the United States where he was granted asylum in 2005. He states that he obtained psychological care and support from his church. He asserts that he had no chance for a relationship with a woman until the Applicant, whom he states has patience and understanding, and he calls her a strong woman who gives him courage to hope for a future. He maintains that he was in a dark hole for years and now has hope, and contends that without the Applicant he would suffer because being without her care and love will cause great emotional pain.

A letter from a psychiatrist, dated April 9, 2015, states that the Applicant's spouse was treated from January 2004 to April 2006 and that he was diagnosed with Major Depression and Post-Traumatic Stress Disorder, for which he was prescribed medication over a two-year period. The letter avers that it had been difficult for the Applicant to have dreams for the future because of his traumatic past, but that depression began to resolve after the Applicant came to the United States. It opines that the Applicant's removal would be devastating to her spouse and he would risk a return to depressive symptoms.

A letter from a licensed clinical social worker, dated December 29, 2014, indicates that the writer met with the Applicant's spouse from December 2003 to June 2005 with subsequent intermittent contact. The letter notes that the spouse had described his arrest and torture in Togo and that he was referred to a psychiatrist who prescribed medication for PTSD and Major Depression. The letter opines that it is vital for the spouse's mental health to have supportive relations and connection to community, and points out that the Applicant and her spouse are involved in community development work. The letter asserts that the Applicant's presence is a source of psychological stability and provides a sense of hope for her spouse, and that his mental health improved since they married.

While the record evidences that the Applicant's spouse would experience emotional hardship due to separation from the Applicant, the evidence of record does not support the assertion that it rises to the level of extreme. The letters submitted by the psychiatrist and social worker, although indicating that the Applicant's spouse suffered depression and PTSD, stem from treatment conducted and concluded nearly 10 years ago, well before the Applicant and her spouse reconnected, and before they married in 2009. We further note that although the Applicant and her spouse married in 2009, they did not reside together in the United States until April 2013, more than three years after marrying, and almost a year after the Applicant procured entry to the United States. The Applicant

has thus not established what specific role she played in her husband's well-being, or what the Applicant's current role is in emotionally and psychologically supporting her spouse. The record thus does not establish the severity of emotional hardship due to separation or the effects it would have on the spouse's daily life. The Applicant also asserts that she and her spouse are seeking medical assistance to have children, but provided no supporting medical documentation. As for the financial hardship referenced, although the Applicant submits pay statements for her spouse and her and a letter from her employer confirming her employment, the Applicant does not provide a complete list of family expenses and liabilities, or any assets, to establish that her spouse is unable to support himself were she to relocate abroad. Nor has the Applicant established that she would be unable to obtain gainful employment abroad and assist her husband should the need arise.

We recognize that the Applicant's spouse will endure hardship as a result of separation from the Applicant. However, we find that the evidence submitted to the record is insufficient to establish that the Applicant's spouse would experience extreme hardship due to separation from the Applicant. The difficulties that the Applicant's spouse would face as a result of his separation from the Applicant, even when considered in the aggregate, do not rise to the level of extreme as contemplated by statute and case law.

We also find the record does not establish that the Applicant's spouse would experience extreme hardship if he were to relocate abroad to reside with the Applicant due to her inadmissibility. The Applicant and her spouse state that the spouse is a survivor of torture and persecution in Togo and that he cannot return there. The Applicant and her spouse state that the spouse fled from Togo and records show that the spouse was granted asylum before an immigration judge in 2005. Although the Applicant and her spouse assert that the spouse cannot return to Togo, the record reflects that the Applicant is a citizen of Benin, where she states that she completed high school and college, obtained a Master's degree, was employed in a successful career before coming to the United States, and obtained her nonimmigrant visa to travel to the United States. Country information submitted by the Applicant includes reports about the human rights and political situation in Togo, but no country information has been submitted regarding Benin and neither the Applicant nor her spouse has made any assertions regarding hardship to the spouse if he were to relocate to Benin with the Applicant. Therefore the record does not establish that the Applicant's spouse would experience extreme hardship if he were to relocate abroad to reside with the Applicant.

In this case, the record does not contain sufficient evidence to show that the hardships faced by the Applicant's U.S. citizen spouse, considered in the aggregate, would rise beyond the common results of removal or inadmissibility to the level of extreme hardship. 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.

*Matter of M-D-A-S-*

**ORDER:** The appeal is dismissed.

Cite as *Matter of M-D-A-S-*, ID# 15247 (AAO Jan. 28, 2016)