



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

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

MATTER OF P-I-C-

DATE: OCT. 21, 2016

APPEAL OF BALTIMORE, MARYLAND DISTRICT OFFICE DECISION

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

The Applicant, a native and citizen of Nigeria, seeks a waiver of inadmissibility for fraud or misrepresentation. *See* Immigration and Nationality Act (the Act) § 212(i), 8 U.S.C. § 1182(i). A foreign national seeking to be admitted to the United States as an immigrant or to adjust status to that of a lawful permanent resident must be admissible or receive a waiver of inadmissibility. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver if refusal of admission would result in extreme hardship to a qualifying relative or qualifying relatives.

The District Office Director, Baltimore, Maryland, denied the application. The Director concluded that the Applicant had not established that refusal of admission would result in extreme hardship to a qualifying relative.

The matter is now before us on appeal. In the appeal, the Applicant submits a brief and states that the Director erred by improperly evaluating the evidence, not acknowledging certain evidence, and by not evaluating the totality of the Applicant's circumstances.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

The Applicant is seeking to adjust status to that of a lawful permanent resident and has been found inadmissible for a fraud or misrepresentation, specifically, attempting to obtain a visa through fraud or willful misrepresentation of a material fact.

Section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), renders inadmissible any foreign national 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 the Act.

Section 212(i) of the Act provides for a waiver of this inadmissibility if refusal of admission would result in extreme hardship to the U.S. citizen or lawful permanent resident spouse or parent of the foreign national.

Decades of case law have contributed to the meaning of extreme hardship. 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). An applicant must demonstrate that claimed hardship is realistic and foreseeable. *Id.*; see also *Matter of Shaughnessy*, 12 I&N Dec. 810, 813 (BIA 1968) (finding that the respondent had not demonstrated extreme hardship where there was “no showing of either present hardship or any hardship . . . in the foreseeable future to the respondent’s parents by reason of their alleged physical defects”). 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); 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). 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).

II. ANALYSIS

The Applicant was found inadmissible for fraud or material misrepresentation, specifically, for entering into a marriage to obtain a visa to travel to the United States. On appeal, she does not contest her inadmissibility, a determination supported by the record.

The issue presented on appeal is whether the Applicant has established extreme hardship to a qualifying relative. On appeal, the Applicant asserts that her U.S. citizen spouse would experience extreme hardship if her waiver is denied. The evidence, considered both individually and cumulatively, does not establish that the Applicant’s spouse would experience extreme hardship if the Applicant is not granted this waiver. The record does not contain sufficient evidence to establish that the hardship claimed would rise above the common consequences of removal or refusal of admission to the level of extreme hardship. Because there is no showing of extreme hardship, we will not address whether the Applicant merits a waiver as a matter of discretion.

A. Hardship

The Applicant must demonstrate that denial of the application would result in extreme hardship to a qualifying relative or qualifying relatives, in this case, her U.S. citizen spouse. The Applicant submitted the following evidence with her Form I-601: medical records, psychological evaluations, photographs, a university letter, and financial records. On appeal, the Applicant submits a brief.

In support of her claim that her spouse would suffer extreme hardship upon separation, the Applicant submitted numerous medical reports prepared after her spouse was assaulted at his workplace in 2007. The Applicant asserts that as a result, he suffers from posttraumatic stress disorder, anxiety, chronic headaches, chronic lower back pain, hypertension, and impaired executive functioning. The Applicant claims that her spouse needs her assistance to keep up with his recommended appointments. The record includes a 2008 neuropsychological evaluation and note indicating that the Applicant's spouse had participated in a neurocognitive remediation program, a 2009 psychiatric evaluation, a medical evaluation dated 2009, and a 2013 psychological assessment. The 2013 psychological assessment shows that the Applicant's spouse previously had been diagnosed with post-traumatic stress disorder and mild neurocognitive disorder. The assessment also indicates that the Applicant's spouse described difficulties with emotional regulation, motivation, and attention. The assessment quotes the Applicant's spouse as saying that the Applicant could help him to accomplish more academically and that she could assist him with "domestic demands" in keeping with their culture. According to the assessment, the Applicant's spouse stated that he wants to start a family with the Applicant. The record includes a letter addressed to the Applicant's spouse from his university, dated 2013, stating that he had been dismissed from his master's program, as he was no longer in good academic standing.

Concerning her spouse's financial hardship, the Applicant submits a copy of his credit summary and credit score from July 2015. The summary indicates that the Applicant's spouse has accrued approximately \$48,000 in debt. The record contains no information about the Applicant's income or evidence showing whether she and her spouse support each another financially.

We recognize that the Applicant's spouse will endure hardship as a result of separation from the Applicant. However, we find that the evidence is insufficient to establish that the Applicant's spouse would experience extreme hardship due to separation from the Applicant. The record does not establish that the Applicant currently is in the United States with her spouse or that she resided with him here after they were married. The psychological assessment provides limited information about the Applicant's role in assisting her spouse. The Applicant, moreover, submitted insufficient documentation regarding the family's income, expenses, and overall financial situation. The record lacks sufficient evidence to demonstrate the emotional, psychological, and financial impacts of separation on the Applicant's spouse are, in the aggregate, above and beyond the hardships normally experienced when families are separated.

With respect to hardship her spouse would experience upon relocation to Nigeria, the Applicant does not explicitly address this scenario. The record lacks a statement from Applicant's spouse asserting he would experience hardship in Nigeria. The record reflects that he is a native of Nigeria, that he married the Applicant in Nigeria, and that he was educated and employed there before immigrating to the United States. The record does not include sufficient evidence of his ties to Nigeria, his financial resources and employment opportunities there, his ability to receive suitable medical treatment, or how frequently he has returned since he married the Applicant there in 2012. The Applicant, therefore, has not established that her spouse would experience extreme hardship in Nigeria.

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. Although she has provided evidence of her spouse's difficulties stemming from the assault against him in 2007, and we are sensitive to the trauma he experienced then, the Applicant has not shown that her spouse currently is experiencing financial, medical, or other hardship as a result of their separation that, considered cumulatively, is extreme. The Applicant has not established extreme hardship to a qualifying relative, as required under section 212(i) of the Act.

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.

III. CONCLUSION

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. The evidence is insufficient to establish extreme hardship to her qualifying relative.

ORDER: The appeal is dismissed.

Cite as *Matter of P-I-C-*, ID# 117133 (AAO Oct. 21, 2016)