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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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DEC 29 2004

FILE:



Office: MANILA

Date:

IN RE:



PETITION: Application for Waiver of Grounds of Inadmissibility under Section 212(g) of the Immigration and Nationality Act, 8 U.S.C. § 1182(g)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

cc:



DISCUSSION: The waiver application was denied by the Immigration Attaché, Manila, Philippines, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The applicant is a native and citizen of the Philippines who was found to be inadmissible to the United States by a consular officer under section 212(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(1)(A)(iii), as an alien who is determined to have a physical or mental disorder and behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or to lead to other harmful behavior.¹ The applicant is the beneficiary of an approved preference visa petition filed by her stepfather as the unmarried daughter of a U.S. citizen or lawful permanent resident. The applicant seeks a waiver of the bar of admission provided under sections 212(g) of the Act, 8 U.S.C. § 1182(g), in order to join her mother and stepfather in the United States.

The Attaché denied the application after determining that the applicant failed to establish her eligibility for a waiver as a matter of discretion. The medical evidence submitted in support of the application indicated that the applicant suffers from Major Depressive Disorder, Severe, Without Psychotic Features, Recurrent, *See Psychiatry Report from [REDACTED]* dated May 14, 2002. The applicant's condition has resulted in depressive episodes that have included instances of self-harm, including an episode in September 2001, which appears to have involved suicidal intent. The decision to deny the waiver was based on the fact that it could not be determined that the applicant is in remission from her condition, pursuant to the guidelines prescribed by the Centers for Disease Control (CDC). Under those guidelines, a person is deemed to be in remission if the alien has not shown any pattern of the disorder for the past five years. Because the applicant's last episode occurred in September 2001, the medical evaluations have determined that her condition was not in remission, and that the harmful behavior was likely to recur. *See Decision of the Attaché*, dated October 10, 2003. Although not specifically referenced in the Attaché's decision, the AAO notes that the psychiatric evaluation recommended professional treatment. Whether the applicant has sought such treatment is unknown, but the record does not contain any evidence that the applicant is undergoing treatment. However, it does contain Form CDC 422-1 which indicates that Great Basin Counseling Services, in Reno, Nevada has been contacted and is willing to provide follow-up treatment in the United States should the applicant's waiver request be granted. *See Statement in Support of the Application for Waiver of Inadmissibility (Form CDC 422-1)*, dated August 8, 2003.

On appeal, the applicant has submitted a letter which does not identify an error in the Attaché's decision or otherwise set forth reasons why the waiver should be granted. Instead, the applicant's letter appears to ask whether the CDC letter dated April 15, 2003, has been taken into account in reaching the decision.² The applicant's letter also asks for clarification regarding the options available to her. Consequently, the applicant's submission is more in the nature of an inquiry regarding the status of the application and the next steps available, rather than a statement in support of the appeal.

8 C.F.R. § 103.3(a)(v) states in pertinent part:

¹ The AAO notes that although the Attaché's decision appears to identify subsection (I) as the specific basis of inadmissibility, the supporting medical documentation, including the supporting documentation from the United States Public Health Service (PHS), identifies the ground of inadmissibility as being section 212(a)(1)(A)(iii)(II), which pertains to conditions involving a physical or mental disorder with a history of behavior which has posed a threat to the property, safety, or welfare of the alien, and which behavior is likely to recur.

² It appears that that the applicant may understandably be under the impression that the letter from the CDC indicates that her waiver has been, or should be approved, rather than being a notification that the CDC has fulfilled its evaluation and coordination function with respect to the requirements necessary to process a request for a waiver of inadmissibility due to medical grounds.

(v) Summary dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The record reflects that the applicant has not identified any errors in the Attaché's decision, nor has she submitted any evidence or other information in support of the appeal. The applicant's notice of appeal will therefore be dismissed pursuant to 8 C.F.R. § 103.3(a)(v).

ORDER: The appeal is dismissed and the Attaché's decision is affirmed.