

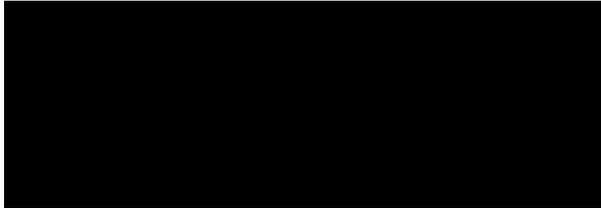
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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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*HL*

FILE: [REDACTED] Office: BANGKOK DISTRICT OFFICE Date: AUG 31 2005

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:

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*

Robert P. Wiemann, Director  
Administrative Appeals Office

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

The applicant is a native and citizen of the Philippines who 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 having attempted to procure entry into the United States by fraud or willful misrepresentation. The applicant is the son of a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to enter the United States as a permanent resident pursuant to an approved Form I-130 Petition for Alien Relative on his behalf.

The Acting Immigration Attaché concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Ground of Excludability (Form I-601) accordingly. *Decision of Acting Immigration Attaché*, dated June 11, 2004.

On appeal, the applicant explains the reason for his misrepresentation for which he was found inadmissible. *Statement from Applicant on Form I-290B*, received June 30, 2004. The applicant provides that his emotional health and employment opportunities will be greater if he relocates to the United States. *Id.*

In addition to Form I-290B, the record contains a statement from the applicant's mother dated May 27, 2004; copies of identification cards of the applicant's siblings in the United States; a supplement to Form I-601 executed by the applicant on December 19, 2003; a statement from the applicant received March 16, 2004; a copy of the applicant's birth certificate, and; a copy of the applicant's mother's U.S. passport.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

- (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:

- (1) 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, on August 20, 2002, the applicant submitted a Form OF-230, Application for Immigrant Visa and Alien Registration, to the U.S. Embassy in Manila, Philippines in order to obtain an immigrant visa to enter the United States. On Form OF-230, the applicant represented his marital status as "single," yet he was married. Whether the applicant was married was a material fact, as it determined in what preference category the applicant was included, and thus it determined whether he was then eligible for an immigrant visa. Section 203 of the Act. Accordingly, the applicant was found inadmissible under section

212(a)(6)(C)(i) of the Act for attempting to procure admission to the United States by willfully misrepresenting a material fact. While the applicant explains that he misrepresented his marital status as he thought it would “simplify and expedite” his visa application, he does not contest his inadmissibility on appeal.

A section 212(i) waiver of the bar to admission resulting from violation of section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship to the citizen or lawfully resident spouse or parent of the applicant. Hardship the alien himself experiences as a result of his inadmissibility is irrelevant to section 212(i) waiver proceedings; the only relevant hardship in the present case is hardship suffered by the applicant’s mother. Once extreme hardship is established, it is but one favorable factor to be considered in the determination of whether the Secretary should exercise discretion. *See Matter of Mendez*, 21 I&N Dec. 296 (BIA 1996).

*Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565-566 (BIA 1999) provides a list of factors the Board of Immigration Appeals deems relevant in determining whether an alien has established extreme hardship pursuant to section 212(i) of the Act. These 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.

On appeal, the applicant discusses hardships he will experience and is experiencing due to his inadmissibility. Specifically, the applicant indicates that he feels alone without his family in the United States, and that he believes his emotional health and employment opportunities will be greater if he is permitted to immigrate. However, as noted above, hardship the applicant himself experiences as a result of his inadmissibility is irrelevant to section 212(i) waiver proceedings. *See* section 212(i)(1).

In a supplement to Form I-601, the applicant stated that the only hardship to a U.S. citizen or permanent resident relative he could identify is that his mother would fail to realize her dream of having all of her children with her in the United States. *Supplement to Form I-601*. In a statement from the applicant’s mother, she provided that “[t]he only difficulty that I am experiencing now is – the long period of time waiting for [the applicant] to be with me here in the USA.” *Statement from Applicant’s Mother*, dated May 27, 2004.

The AAO recognizes that the applicant’s mother will endure hardship as a result of separation from the applicant, as she will not have the companionship of her son. However, her situation is typical to individuals separated as a result of deportation or exclusion and does not rise to the level of extreme hardship based on the record. U.S. court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. *See Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991). For example, *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), held that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship. In addition, *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), held that the common results of deportation are insufficient to prove extreme hardship and defined extreme hardship as hardship that was unusual or beyond that which would normally be expected upon deportation. *Hassan v. INS, supra*, held further that the uprooting of family and

separation from friends does not necessarily amount to extreme hardship but rather represents the type of inconvenience and hardship experienced by the families of most aliens being deported.

Based on the foregoing, the applicant has not shown that his inadmissibility will create emotional hardship for his mother that is unusual or beyond that which would normally be expected for families of those prohibited from entering the United States. Thus, the documentation in the record fails to establish the existence of extreme hardship to the applicant's mother caused by the applicant's inadmissibility to the United States. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether he merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(6)(C) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.