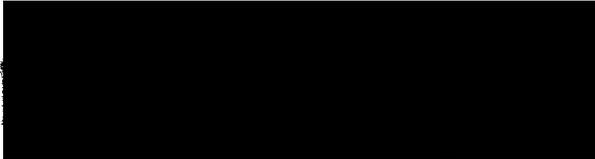


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**JUL 18 2005**

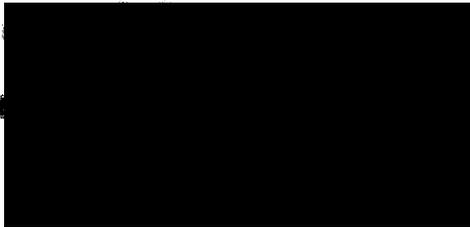
IN RE:



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:



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

**DISCUSSION:** The waiver application was denied by the District Director, Newark, NJ, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Pakistan who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for seeking to procure admission into the United States by fraud or willful misrepresentation. The applicant is the spouse 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 reside in the United States with his spouse who petitioned for him in this case.

The district director 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 Grounds of Excludability (Form I-601) accordingly. *Decision of the District Director*, dated April 14, 2004.

On appeal, counsel asserts that the applicant's spouse and children will suffer extreme hardship as evidenced by the newly submitted psychologist's report. See *Form I-290B*, dated May 10, 2004.

In support of these assertions, counsel submits a brief, dated May 6, 2004, and a psychologist's report, dated May 3, 2004. The record also contains previously submitted documents including statements from the applicant and his spouse. The entire record was reviewed and considered in arriving at a decision on the appeal.

The record reflects that the applicant attempted to enter the United States in 1990 with a counterfeit non-immigrant visa in his passport. As a result of this prior misrepresentation, the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act.

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.

Counsel states that the applicant's U.S. citizen spouse and children are qualifying relatives for purposes of an I-601 application. *Brief in Support of Appeal*, at 2. The AAO notes that section 212(i) of the Act does not

consider U.S. citizen children as qualifying relatives for purposes of determining extreme hardship. However, the statute acknowledges the U.S. citizen spouse as a qualifying relative.

*Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560 (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 lawful permanent resident or United States citizen family ties to 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.

Therefore, an analysis under this case is appropriate. The record reflects that the applicant's spouse has four United States citizen children. There is no other mention of lawful permanent resident or United States citizen family ties to the United States. There is no mention of the qualifying relative's family ties outside of the United States. There is no mention of the country conditions in Pakistan or the qualifying relative's ties in Pakistan.

The record indicates that the applicant's spouse is unable to work as she is raising four children and without the applicant's income, she would be on public assistance. *Psychologist's Report*, at 4, dated May 3, 2004. However, the record includes head of household tax returns for the applicant's spouse from 1997 until 2001 which reflect that she was working. The record includes a letter, dated December 5, 2001, verifying employment with Pitney Bowes Management Services. At this time, the applicant's spouse had four children, however, she was able to work and appeared to be the sole wage earner in the family. The record does not include any evidence that the applicant has worked other than a vague statement in the psychologist's evaluation that he is an assistant manager in a warehouse. *Id.* at 5. Also, there is no indication that the applicant was the caretaker of the children when his spouse was working. Therefore, probative financial documentation has not been provided to show financial hardship to the applicant's spouse if she remains in the United States. Nothing in the record indicates that the applicant or his spouse cannot obtain employment in Pakistan. Furthermore, counsel does not address the financial impact to the applicant's spouse if she relocates to Pakistan.

Counsel emphasizes the psychologist's report which states that the applicant's spouse is suffering from a major depressive disorder and that she is at risk to make a suicide gesture. *Id.* at 6. The report also states that two of the children have asthma and two of them have attention deficit hyperactivity disorder. The AAO is sympathetic to the difficult situation that the applicant's spouse may face. However, there is no evidence in the record to show that the applicant's spouse or children are receiving any therapy or medication for their problems. There is no documentation to substantiate the alleged hyperactivity disorder of the children. The evaluation mentions that teachers have counseled the applicant and his spouse about the hyperactivity of their third child. *Id.* at 4. However, there are no letters from these teachers to verify the claims in the evaluation. The psychologist states several medical problems in his one-time evaluation, however, there is no mention of a follow-up appointment or proposed immediate treatment to address their problems. Also, there is no evidence that medical treatment for these problems are unavailable in Pakistan.

Therefore, when reviewing the record in its entirety, extreme hardship has not been shown in the event that the applicant's spouse relocates to Mexico or in the event that she remains in the United States.

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.

Moreover, the AAO notes that the U.S. Supreme Court held in *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship. The AAO recognizes that the applicant's spouse will endure hardship as a result of separation from the applicant and is sympathetic to her situation. However, her situation, based on the record, is typical to individuals separated as a result of deportation or exclusion and does not rise to the level of extreme hardship.

The AAO notes that a review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's spouse caused by the applicant's inadmissibility to the United States and that the district director considered the relevant factors and did not abuse his discretion. 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(i) 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.