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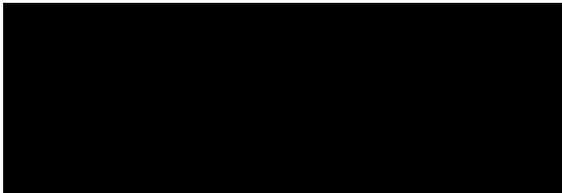
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FILE:  Office: BLOOMINGTON, MN Date: **NOV 21 2005**

IN RE: 

APPLICATION: Application for Waiver of Grounds of Inadmissibility under sections 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 district director, Bloomington, MN denied the waiver application. The matter is before the Administrative Appeals Office (AAO) in Washington, DC on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Guyana 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 decision by the district director also indicates that the applicant may have been inadmissible under section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having committed a crime involving moral turpitude (CIMT). The applicant is a daughter of a naturalized citizen of the United States and seeks a waiver of inadmissibility in order to reside in the United States with her U.S. citizen mother

The district director found that based on the evidence in the record, the applicant failed to establish extreme hardship to her U.S. citizen mother, the qualifying relative. The application was denied accordingly. *Decision of the District Director, April 7, 2004.*

On appeal, counsel contends that the applicant's mother increasingly relies upon the applicant for support and care such that the applicant's removal would amount to extreme hardship to the applicant's mother.

Although counsel indicated that he would be submitting a brief in support of the appeal, no brief appears in the record. It does not appear that any additional evidence beyond the Form I-290B has been received. On the Form I-290B, filed on May 10, 2004, counsel asked for additional time for briefing and filing evidence. The reason given was that the applicant's mother had separated from her alcoholic husband and moved to live with the applicant in Minnesota. Eighteen months have passed since this request was made and no additional information has been received.

The entire record will be reviewed and considered.

Section 212(a)(2)(A)(i) of the Act provides, in pertinent part:

Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of –

- (I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime,... is inadmissible.

There is no evidence in the record indicating that the applicant was convicted of a CIMT. There also is no evidence indicating that she admitted either committing a CIMT or committing acts which constitute the essential elements of a CIMT or conspiracy to commit a CIMT. Therefore, the applicant is not inadmissible under 212(a)(2)(A)(i)(I) of the Act.

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

- (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:

- (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 indicates that the applicant was admitted into the United States on December 27, 1990 using a fraudulent passport. She is therefore inadmissible under section 212(a)(6)(C)(i) of the Act.

A section 212(i) waiver of inadmissibility under section 212(a)(6)(C)(i) of the Act is dependent first upon a showing that the applicant's inadmissibility imposes an extreme hardship to the U.S. citizen or lawfully resident spouse or parent of the applicant. The applicant's mother is the only qualifying relative. Any information regarding potential hardship to the applicant is irrelevant to the decision and will not be addressed. If extreme hardship to the applicant's mother 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 (BIA 1999) provides a list of factors the Bureau 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.

Counsel submitted a statement on the Form I-290B indicating that the applicant's mother had separated from her husband and was moving to Minnesota to live with her daughter. That statement indicated that the applicant was now the only means of financial support for her mother, that she provided a home for her mother, that she ensured that her mother received medical care and nutrition, and that she provided emotional support to help her mother deal with the separation after 48 years of marriage. The attorney's statement also indicated that her mother lacked family ties in Guyana and would be unable to find medical care in that country. There is no supporting evidence to give weight to these statements by the applicant's attorney. The record does not include an updated letter from the applicant's mother, an accounting indicating the current expenses of the applicant incurred on behalf of her mother or a copy of an income tax form showing that the applicant now claims her mother as a dependent on her income tax returns. There is nothing in the record to

support the statement that the applicant's mother moved to Minnesota. The record does not include copies of any legal documents related to the separation or divorce of the applicant's mother and father or any financial responsibilities that the court might have placed on either. Without some evidence backing the statements made by the attorney the statements alone carry very little weight.

The letter from the applicant's mother and father, submitted with her application for waiver, indicates that the applicant communicated frequently with her parents, helped them with problems related to business that they did not understand, and provided some money to help with bills. *Letter of Noramnath Mohabir and Nankie Mohadir*, March 19, 2003. A copy of the applicant's mother and father's federal income tax return for 2002 indicated a combined income in wages, salaries and tips of \$55,101.00 in 2002. A copy of the applicant's federal income tax return for the same year indicates that the applicant earned \$31,522.00. The record does not contain any objective information concerning the applicant's earning potential in Guyana. Since the latest available information indicates that the applicant's mother with her father earned almost \$24,000.00 more than the applicant in 2002, the record does not indicate that the applicant's mother needs the financial support of the applicant to survive.

Information submitted from the doctor of the applicant's mother indicates that she has hypertension and diabetes and was complaining of chest pain. The doctor prescribed medication and follow-up visits. There is no indication that the conditions described made it impossible for the applicant's mother to care for herself. There is no objective information in the record concerning the availability of medical care for these conditions in Guyana. While this information indicates that the applicant's mother has serious medical conditions, it does not indicate that she needs her daughter's care in order to carry out her daily routine.

U.S. court decisions have held that the common results of removal are insufficient to prove extreme hardship. 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. *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. While the hardship to be endured by the applicant's mother if the applicant is removed should not be minimized, there is nothing in the record to indicate that such hardship is more severe than that described by the phrase "common result of deportation." The life of the applicant's mother would be disrupted by the applicant's removal, but the information provided does not establish that she would suffer extreme hardship.

Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether the applicant 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. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.