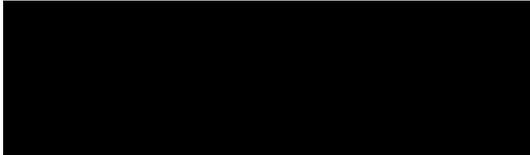




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FILE: [REDACTED]

Office: LOS ANGELES (SANTA ANA), CA Date:

IN RE: [REDACTED]

SEP 28 2005

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, Los Angeles (Santa Ana), CA and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Indonesia 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 procuring admission to the United States by fraud or willful misrepresentation. The applicant is the spouse of a U.S. citizen. The applicant 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 family.

The district director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Excludability. *Decision of District Director*, dated March 24, 2004.

On appeal, counsel asserts that the district director did not properly analyze the hardship and erred in his decision. *Brief in Support of Appeal*, undated.

The record includes, but is not limited to, counsel's brief, the applicant's sworn statement regarding his misrepresentation and an affidavit from the applicant's spouse. The entire record was reviewed and considered in arriving at a decision on the appeal.

The record reflects that the applicant arrived in the United States and stated the purpose of his trip was to visit, but he later admitted that his true intention was to remain in the United States permanently. See *Applicant's Record of Sworn Statement*, dated March 20, 2003. As a result of this prior misrepresentation, the applicant is inadmissible to the United States.

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 AAO notes that section 212(h) of the Act provides that a waiver of inadmissibility is dependent first upon a showing that the bar to admission imposes an extreme hardship on a qualifying family member. If extreme hardship is established, the Secretary then assesses whether an exercise of discretion is warranted.

*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 is appropriate under this case for the applicant's spouse. The record indicates that the applicant's spouse has three children in the United States, one of whom is a U.S. citizen. The applicant and his spouse have been married for over eleven years. There is no mention of the applicant's spouse's ties to Indonesia.

In regard to country conditions, counsel asserts that the economic conditions in Indonesia are horrid, unemployment is high and salaries are not enough to cover daily living. *Brief in Support of Appeal*, at 8. Counsel asserts that Indonesia is not a stable country with constant political upheaval and violence. The AAO notes that going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998)(citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

In regard to the financial impact of departure, counsel states that the applicant and his spouse earn more than \$35,000 a year and could not receive such a salary in Indonesia. *Brief in Support of Appeal*, at 8. There is no evidence that the applicant cannot find employment in Indonesia.

There is no mention of significant conditions of health for the applicant's spouse, particularly when tied to an unavailability of suitable medical care in Indonesia. Counsel asserts that the applicant's U.S. citizen child would not receive medical care in Indonesia equivalent to U.S. medical care. The AAO notes that the U.S. citizen child is not a qualifying relative for extreme hardship analysis and the child's hardship is only relevant to extent it cause hardship to the applicant's spouse.

Lastly, counsel asserts that the applicant's spouse will suffer hardship knowing that her children will not be able to attend college and have the possibility of solid employment. *Id.* at 9. There is no evidence to support this contention.

Upon review of the record, the AAO finds that extreme hardship has not been shown in the event that the applicant's spouse relocates to Indonesia 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.

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. 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.