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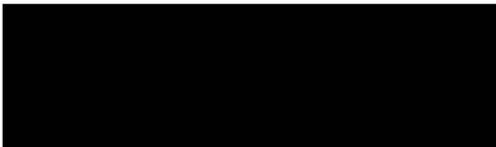
U.S. Department of Homeland Security  
20 Mass, Rm. 3000,  
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U.S. Citizenship  
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FILE: [Redacted] Office: CHICAGO Date: JUL 17 2006

IN RE: [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 APPLICATION:  
[Redacted]

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The District Director, Chicago, Illinois, denied the waiver application, and it 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 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 having procured admission to the United States by fraud or willful misrepresentation. The applicant is the spouse of a U.S. citizen. She 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 her spouse.

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 Inadmissibility (Form I-601) accordingly. *Decision of the District Director*, dated June 2, 2003.

The record reflects that, on October 6, 1998, the applicant procured admission to the United States by presenting a fraudulently obtained Philippine passport and U.S. nonimmigrant visa under a different name, [REDACTED]. On September 12, 1999, the applicant married her U.S. citizen spouse, [REDACTED]. On May 22, 2000, the applicant filed an Application to Register Permanent Residence or Adjust Status (Form I-485) based on a Petition for Alien Relative (Form I-130) filed by [REDACTED]. On August 21, 2001, the applicant appeared at Citizenship and Immigration Services' (CIS) Chicago District Office. The applicant testified that she had procured admission to the United States by fraud in 1998.

On October 5, 2001, the applicant filed the Form I-601 with documentation supporting her claim that her family members would suffer extreme hardship.

On appeal, counsel contends that the applicant's spouse would suffer extreme hardship if the applicant were denied a waiver. *Applicant's Brief*, dated August 20, 2004. In support of this assertion, counsel submitted the above-referenced brief and copies of documents previously provided. The entire record was reviewed and considered in rendering a decision on the appeal.

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.

The district director based the finding of inadmissibility under section 212(a)(6)(C)(i) of the Act on the applicant's admitted use of a fraudulently obtained passport and U.S. nonimmigrant visa to procure admission into the United States in 1998. Counsel does not contest the district director's determination of inadmissibility.

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

- (iii) Waiver authorized. – For provision authorizing waiver of clause (i), see subsection (i).

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.

Hardship to the alien herself is not a permissible consideration under the statute. A section 212(i) waiver is therefore dependent upon a showing that the bar to admission imposes an extreme hardship on the U.S. citizen or lawfully resident spouse or parent of the applicant.

The concept of extreme hardship to a qualifying relative “is not . . . fixed and inflexible,” and whether extreme hardship has been established is determined based on an examination of the facts of each individual case. *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560 at 565 (BIA 1999). In *Matter of Cervantes-Gonzalez*, the Board of Immigration Appeals set forth a list of non-exclusive factors relevant to determining whether an alien has established extreme hardship to a qualifying relative pursuant to section 212(i) of the Act. These factors include, with respect to the qualifying relative, the presence of family ties to U.S. citizens or lawful permanent residents in the United States, family ties outside the United States, country conditions where the qualifying relative would relocate and family ties in that country, the financial impact of departure, and significant health conditions, particularly where there is diminished availability of medical care in the country to which the qualifying relative would relocate. *Id.* at 566. The BIA has held:

Relevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists. In each case, the trier of fact must consider the entire range of factors concerning hardship in their totality and determine whether the combination of hardships takes the case beyond those hardships ordinarily associated with deportation. *Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996). (Citations omitted).

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).

The record reflects that [REDACTED] is a U.S. citizen by birth. The applicant and [REDACTED] do not have any children. [REDACTED] owns his own business and is self-employed. The record reflects further that the applicant is in her 30's, [REDACTED] is in his 40's, and [REDACTED] has no health concerns.

Counsel contends that [REDACTED] would suffer extreme hardship if he were to remain in the United States without the applicant. Counsel asserts that, prior to meeting the applicant [REDACTED] was suffering from a deep depression brought on by the death of his mother from cancer in 1996 and his role as primary care-taker for his father who had suffered a major stroke in 1995, from which he would not have recovered without the applicant. Counsel contends that the district director gave little weight to [REDACTED] affidavit in regard to the psychological loss he would suffer should his wife be denied a waiver. Counsel asserts that, because of her role in [REDACTED] recovery from depression [REDACTED] emotional hardship would not be of the type usually associated with separation from family [REDACTED] in his affidavit, states that he cared for his mother from 1993 until her death in 1996 and had cared for his father from 1995, after he suffered a major stroke, until 1998 when his brother took over that responsibility [REDACTED] states that, as a result of spending time caring for his parents, he found it hard to start over after not working for a few years and that the applicant is the reason he was able to improve his life and he could not have done it without her [REDACTED] states that he does not think he could go on without the applicant.

The record indicates that, since November 1994 [REDACTED] has been consistently employed by [REDACTED]. Tax records from 1999 indicate that [REDACTED] is the proprietor of [REDACTED]. There is no evidence in the record to confirm that [REDACTED] did not work during the period of time he was caring for his parents. Financial records indicate that, in 2000, [REDACTED] contributed substantially to the household income, earning approximately \$29,599, in comparison to the \$4,190 the applicant contributed to household income. The record reflects that [REDACTED] has family members in the United States who may be able to assist him financially in the absence of the applicant. The record shows that, even without assistance from the applicant, [REDACTED] has, in the past, earned sufficient income to exceed the poverty guidelines for his family. *Federal Poverty Guidelines*, <http://aspe.hhs.gov/poverty/figures-fed-reg.shtml>. While it is unfortunate that [REDACTED] may have to lower his standard of living, such economic loss, even when combined with the emotional hardship discussed below, does not constitute extreme hardship.

There is no evidence in the record, besides [REDACTED] affidavit, to indicate that [REDACTED] was depressed after caring for his parents for an extended period of time, that he was diagnosed with depression, that he received psycho or pharmoco-therapy for his depression or that the applicant played an important role in his recovery from depression. There is no evidence in the record, besides [REDACTED] affidavit, that the applicant's departure from the United States would cause [REDACTED] substantially greater emotional hardship than that commonly suffered by aliens and families upon deportation. As such, there is no evidence in the record to suggest that [REDACTED] suffers from a physical or mental illness that would cause him to suffer physical or emotional hardship beyond that commonly suffered by aliens and families upon deportation. The record reflects that [REDACTED] has family members in the United States who may be able to provide him with emotional support in the absence of the applicant.

Counsel, the applicant and [REDACTED] do not assert that [REDACTED] would suffer hardship if he returned to the Philippines with the applicant. The AAO is, therefore, unable to find that [REDACTED] would experience hardship should he choose to join the applicant in the Philippines. Additionally, the AAO notes that, as a citizen of the United States, the applicant's spouse is not required to reside outside of the United States as a result of denial of the applicant's waiver request and, as discussed above, he would not suffer extreme hardship if he remained in the United States without the applicant.

The record, reviewed in its entirety and in light of the *Cervantes-Gonzalez* factors, cited above, does not support a finding that the applicant's spouse would face extreme hardship if the applicant were refused admission. Rather, the record demonstrates that [REDACTED] will face no greater hardship than the unfortunate, but expected disruptions, inconveniences, and difficulties arising whenever a spouse is removed from the United States. In nearly every qualifying relationship, whether between husband and wife or parent and child, there is a deep level of affection and a certain amount of emotional and social interdependence. While, in common parlance, the prospect of separation or involuntary relocation nearly always results in considerable hardship to individuals and families, in specifically limiting the availability of a waiver of inadmissibility to cases of "extreme hardship," Congress did not intend that a waiver be granted in every case where a qualifying relationship, and thus the familial and emotional bonds, exist. The point made in this and prior decisions on this matter is that the current state of the law, viewed from a legislative, administrative, or judicial point of view, requires that the hardship, which meets the standard in section 212(i) of the Act, be above and beyond the normal, expected hardship involved in such cases. U.S. court decisions have repeatedly held that the common results of removal are insufficient to prove extreme hardship. See *Hassan v. INS*, 927 F.2d 465, 468 (9<sup>th</sup> Cir. 1991), *Perez v. INS*, 96 F.3d 390 (9<sup>th</sup> Cir. 1996); *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996) (holding that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship); *Matter of Shaughnessy*, 12 I&N Dec. 810 (BIA 1968) (holding that separation of family members and financial difficulties alone do not establish extreme hardship). "[O]nly in cases of great actual or prospective injury . . . will the bar be removed." *Matter of Ngai*, 19 I&N Dec. 245, 246 (BIA 1984). Further, demonstrated financial difficulties alone are generally insufficient to establish extreme hardship. See *INS v. Jong Ha Wang*, 450 U.S. 139 (1981) (upholding BIA finding that economic detriment alone is insufficient to establish extreme hardship).

The AAO therefore finds that the applicant failed to establish extreme hardship to her U.S. citizen spouse as required under section 212(i) of the Act, 8 U.S.C. § 1186(i). Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether she merits a waiver as a matter of discretion.

In proceedings for an application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of proving eligibility rests with the applicant. INA § 291, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.