



U.S. Citizenship
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FILE:

Office: CHICAGO, ILLINOIS

Date: JUL 21 2006

IN RE:

[Redacted]

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

ON BEHALF OF APPLICANT:

[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 waiver application was denied by the District Director, Chicago, Illinois. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant is a native of Kuwait and citizen of Jordan who entered the United States in 1994 with a student visa. The applicant is married to a U.S. citizen and is the beneficiary of an approved petition for alien relative. He was found to be inadmissible to the United States pursuant to § 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 been convicted of a crime involving moral turpitude. The applicant seeks a waiver of inadmissibility in order to remain in the United States with his wife.

The district director found that based on the evidence in the record, the applicant had failed to establish extreme hardship to his U.S. citizen spouse. The application was denied accordingly. On appeal, counsel asserts that the evidence establishes that the applicant's wife will suffer emotional, financial, and physical hardship if the applicant is removed from the United States. In support of his assertions, counsel submits student loan, credit card, and mortgage statements, as well as medical documentation of the applicant's wife's polycystic ovarian condition.

Section 212(a)(2)(A) of the Act states in pertinent part, that:

(i) [A]ny 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.

Section 212(h) states in pertinent part that:

(h) The Attorney General may, in his discretion, waive the application of subparagraphs (A)(i)(I) . . . of subsection (a)(2) . . . if-

(1)(A) [I]t is established to the satisfaction of the Attorney General that-

(i) [T]he activities for which the alien is inadmissible occurred more than 15 years before the date of the alien's application for a visa, admission, or adjustment of status,

(ii) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States, and

(iii) the alien has been rehabilitated; or

(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the alien's denial of admission would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien.

The applicant was convicted of false information on a charge slip, a felony under 720 Illinois Compiled Statutes § 250/12, in 1998. As his criminal activity occurred less than fifteen years prior to his application for adjustment of status, the applicant is statutorily ineligible for a waiver pursuant to § 212(h)(1)(A) of the Act. He is, however, eligible to apply for a waiver of inadmissibility pursuant to § 212(h)(B) of the Act.

In *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560 (BIA 1999) the Board of Immigration Appeals (BIA) provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship. These factors included 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.

U.S. court decisions have additionally 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 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.

Counsel submits information about the applicant's wife's medical condition, asserting that she cannot move to Jordan to accompany the applicant, as she would receive inadequate medical care there. The information on the record reveals that polycystic ovarian syndrome is a chronic condition that requires medical treatment to avoid complications. According to Medline Plus, a service of the National Institutes of Medicine, at <http://www.nlm.nih.gov/medlineplus/ency/article/000369.htm>, the applicant's condition may be effectively treated with different medications. Maintaining a healthy diet and body weight also may improve symptoms. The record does not indicate that the applicant's wife is disabled or incapacitated, and there is no evidence on the record that she would not be able to receive suitable medical treatment in Jordan.

Counsel also contends that the applicant's wife's immediate family lives near her in the United States, and she has no ties outside this country. Counsel asserts that the applicant's wife would suffer in Jordan, living in an unfamiliar culture with no support system. Counsel adds that the applicant himself has never lived in Jordan, and he has no family ties in that country. Counsel asserts that, as a Palestinian, the applicant is stateless. The applicant holds a Jordanian passport, but he was born in Kuwait and later lived in Egypt. The record lacks evidence regarding the applicant's and his wife's prospects in Jordan. It has not been established that he and his wife will be unemployed, or that his wife will suffer greater than usual hardship in her effort to accustom

herself to a foreign lifestyle. The record does not establish that the applicant's wife will experience more emotional pain at being separated from her family than other persons who relocate to accompany a spouse.

If the applicant is removed, counsel contends that his wife will suffer extreme financial hardship, because he is the main breadwinner in the family. The record contains information regarding the applicant's financial obligations. It has not been established that the applicant would be unable to contribute to the family's income from a location outside the United States, or that the applicant's wife would not be able to make adjustments as necessary to accommodate the new situation. In addition, the record does not show that the applicant is the sole source of assistance available to the applicant, particularly in view of her close relationship with her other family members.

The totality of the documentation in the record does not establish that the applicant's U.S. citizen spouse would suffer hardship that was unusual or beyond that which would normally be expected upon the applicant's removal. 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 § 212(h) of the Act, the burden of proving eligibility remains entirely with the applicant. 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.