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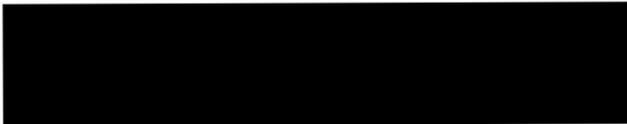


FILE: [REDACTED] Office: LOS ANGELES, CA Date: JUN 08 2006

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 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Los Angeles, CA, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The applicant is a native and citizen of Syria who was found 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 procured 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 remain in the United States with her U.S. citizen spouse and children.

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*, October 28, 2004.

On appeal, counsel asserts that the applicant's spouse will suffer extreme hardship in the form of mental health concerns, financial hardships and emotional separation as a result of the applicant's inadmissibility to the United States. *Counsel's Brief*, dated December 10, 2004.

The record reflects that on April 13, 1996, the applicant used a passport and visitor visa with an assumed name to procure entry into 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.

A section 212(i) waiver of the bar to admission resulting from violation of section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship to the citizen or lawfully resident spouse or parent of the applicant. Hardship the alien herself experiences or her children experience upon deportation is irrelevant to section 212(i) waiver proceedings; the only relevant hardship in the present case is that suffered by the applicant's spouse. 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).

Matter of Cervantes-Gonzalez, 22 I&N Dec. 560 (BIA 1999) provides a list of factors the Bureau of Immigration Appeals (BIA) 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. 22 I&N Dec. at 565-566.

Counsel contends that the applicant's spouse would suffer extreme hardship as a result of the departure of the applicant from the United States. The applicant's spouse is a Lebanese refugee of Armenian decent who had a tragic early adulthood where he witnessed many atrocities before he fled the country in 1979. The applicant's spouse is anxious and depressed. The applicant submitted a psychological analysis completed by Dr. [REDACTED]. Dr. [REDACTED] states that he met with the applicant on two occasions, November 10 and 18, 2004. In addition the applicant took the Minnesota Multiphasic Personality Inventory-2 (MMPI-2) test on November 14, 2004. In his analysis, Dr. [REDACTED] concludes that because of the experiences the applicant had during his early adulthood, he has a pre-existing vulnerability to being overwhelmed by certain types of stressors. Adding to his stress is his daughter's learning difficulties and the possibility of her having to reside in Syria where she will not receive adequate attention for these issues. Moreover, the applicant's spouse's scores on the MMPI-2 test are consistent with someone who has severe depression and some degree of paranoia. *See Dr. [REDACTED] analysis Page 3.* The AAO notes that based on the detailed evaluation completed by Dr. [REDACTED] and the existence of pre-existing psychological vulnerabilities it is reasonable to expect that the applicant's spouse's mental health condition would worsen with the removal of the applicant. Thus, the applicant's spouse has established that he would suffer extreme hardship as a result of being separated from the applicant.

To qualify for a section 212(i) waiver the applicant must also establish that her spouse will suffer extreme hardship as a result of moving to Syria with the applicant. The applicant's spouse states that he would suffer financially and emotionally if he were forced to relocate to Syria. *Applicant's Spouse's Statement*, dated September 9, 2003. The applicant's spouse states that his family is very close and assimilated in America. He states that he owns a business, a home and a shopping center that he would no longer be able to maintain if he relocated to Syria. Dr. [REDACTED] in his analysis, states that the applicant would also suffer emotionally as the applicant's spouse came to the United States as a refugee from Lebanon. As a Christian Armenian he was the target of the invading Syrian Muslims. *See Dr. [REDACTED] analysis Page 3.* Taking into consideration the financial assets of the applicant's spouse, his family ties to the United States, and his refugee background being connected to Syria the applicant has established that he would suffer extreme hardship if he were to relocate to Syria with the applicant.

The grant or denial of the above waiver does not turn only on the issue of the meaning of "extreme hardship." It also hinges on the discretion of the Secretary and pursuant to such terms, conditions and procedures as he may by regulations prescribe.

The favorable factors in this matter are the extreme hardship to the applicant's spouse, the absence of any criminal record, the passage of over 10 years since the applicant's immigration violation and the applicant's

three U.S. children. The unfavorable factor in this matter is the applicant's willful misrepresentation to officials of the U.S. Government in seeking to obtain admission to the United States. The AAO finds that the hardship imposed on the applicant's spouse as a result of her inadmissibility outweighs the unfavorable factors in the application. Therefore, a favorable exercise of the Secretary's discretion is warranted in this matter.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i), the burden of establishing that the application merits approval remains entirely with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has now met that burden. Accordingly, the appeal will be sustained.

ORDER: The appeal is sustained and the waiver application is approved.