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FILE:

Office: BANGKOK (HONG KONG)

Date: JUN 20 2006

IN RE:

Applicant:

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:

SELF-REPRESENTED

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, Hong Kong, on behalf of the Bangkok District Office, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native of China and citizen of Taiwan and the United Kingdom who was 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 seeking to procure a visa, other documentation, or admission into the United States or other benefit provided under the Act by fraud or willful misrepresentation. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to enter the United States and reside with her U.S. citizen husband and her daughter.

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 (Form I-601) accordingly. *Decision of the District Director*, dated December 14, 2004.

On appeal, the applicant contends that she is suffering hardship as a result of separation from her husband and daughter. *Statement from Applicant on Appeal*, dated January 10, 2005. The applicant's husband provided that he has medical conditions, and that he is unable to take a long overseas flight to visit the applicant abroad. *Statement from Applicant's Husband*, dated October 12, 2004.

The record contains a statement from the applicant; a statement from the applicant's husband; a copy of the applicant's husband's passport; a letter from the applicant's husband's doctor; a letter from the applicant's husband's employer; a copy of the passport and permanent resident card of the applicant's husband's mother; a copy of the applicant's daughter's United Kingdom passport; a statement from the applicant regarding her entries to the United States, and; documentation regarding the applicant's application for a B-2 visa, and subsequent attempted entry to the United States. The entire record was reviewed and considered in rendering this decision.

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 record reflects that the applicant applied for and received B-2 visas for her and her daughter based on her assertion that she intended for them to enter the United States as temporary visitors for pleasure. The applicant proceeded to enroll her daughter in U.S. schools, from approximately 1991-1999. In 1999, the applicant was refused entry pursuant to her B-2 visa, and it was determined that she made a material misrepresentation when submitting the prior B-2 visa applications. The applicant admitted that she intended to enroll her daughter in U.S. schools for an indefinite period at the time she applied for their B-2 visas, rather than enter for a temporary period as permitted under B-2 status. Accordingly, the applicant was 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 seeking to procure a visa or admission into the United States by fraud or willful misrepresentation. The applicant does not contest her inadmissibility on appeal.

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 upon deportation is irrelevant to section 212(i) waiver proceedings; the only relevant hardship in the present case is hardship suffered by the applicant's husband. 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, 565-566 (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.

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).

On appeal, the applicant contends that she is suffering hardship as a result of separation from her husband and daughter, and that she wishes to have her family together. *Statement from Applicant on Appeal*, dated January 10, 2005. The applicant's husband provided that he is experiencing significant hardship as a result of separation from the applicant. *Statement from Applicant's Husband*, dated October 12, 2004. He indicated that he has medical conditions, including rheumatoid disorder. *Id.* The record contains a letter from a doctor in which he provides that the applicant's husband suffers from rheumatoid disorder including arthritis, fibromyalgia, and he requires close medical attention. *Letter from [REDACTED] C.A.O.M.D.*, dated October 7, 2004. The applicant's husband stated that it is difficult for him to take a long flight abroad, suggesting that he would be unable to visit the applicant if her waiver application is denied. *Statement from Applicant's Husband*.

The applicant's husband indicated that he is employed as a purchasing manager, and it would not be easy for him to find a better job. *Id.* The applicant's husband stated that his mother resides with him, and that he must care for her. *Id.*

Upon review, the applicant has not established that a qualifying relative will experience extreme hardship if she is prohibited from entering the United States. The evidence of record contains references to the applicant's daughter who resides in the United States, and the applicant indicated that she wishes to be reunited with her. Thus, the applicant implies that her daughter will experience hardship if the applicant's waiver application is denied. The applicant further states that she herself is experiencing hardship due to separation from her family. However, it is noted that hardship to the applicant or her daughter is not a relevant concern in the present matter. Section 212(i)(1) of the Act. While the AAO acknowledges that the applicant and her daughter will bear consequences if the applicant's waiver application is denied, only hardship to the applicant's husband may be properly considered in this section 212(i) waiver proceeding.

The applicant's husband expressed his desire to have his family reunited, and it is understood that he will endure emotional consequences if he remains separated from the applicant. However, the applicant or her husband have not described emotional consequences that go beyond those ordinarily expected when a family member is deemed inadmissible. Based on the record, their situation is typical to individuals separated as a result of deportation or exclusion and does not rise to the level of extreme hardship. 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 record reflects that the applicant's husband suffers from rheumatoid disorder including arthritis, fibromyalgia. However, the applicant has not provided sufficient evidence to show the severity of his condition, or whether he is able to meet his daily needs in the applicant's absence. The brief letter from the applicant's husband's doctor does not reflect that he receives ongoing treatment or in-home care. 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)). As the applicant's husband works full-time as a purchasing manager and he cares for his elderly mother, the record suggests that he has sufficient capacity to perform necessary daily tasks without the applicant's assistance. The applicant has not established that her husband would experience extreme hardship due to his health condition in her absence.

Further, the record does not show that the applicant's husband would endure economic hardship if he remains separated from the applicant. As noted above, the applicant's husband works full-time. He or the applicant have not expressed that their separation constitutes a financial burden.

Based on the foregoing, the applicant has not established that the instances of hardship that will be experienced by her husband should she be prohibited from entering the United States, considered in

aggregate, rise to the level of extreme hardship. 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 application for waiver of grounds of inadmissibility under section 212(a)(6)(C) 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.