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U.S. Citizenship
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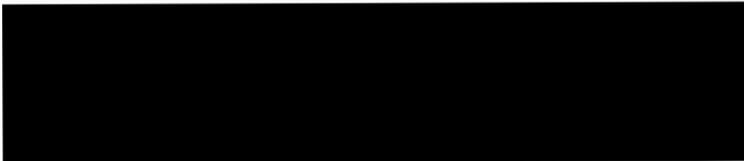


FILE: [REDACTED] Office: LOS ANGELES, CA Date: **MAY 26 2006**

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, California, and 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 procuring admission into the United States by fraud or willful misrepresentation. The applicant's parents and spouse are U.S. citizens and 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 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 (Form I-601) accordingly. *Decision of the District Director*, dated February 4, 2004.

On appeal, counsel asserts that the district director erred in denying the application as removal of the applicant will cause extreme hardship to her spouse and parents. *Brief in Support of Appeal*, at 1, dated February 26, 2004.

The record includes, but is not limited to, counsel's brief, statements from the applicant and her family and documents related to their financial situation. The entire record was reviewed and considered in arriving at a decision on the appeal.

The record reflects that on April 9, 1991, the applicant entered the United States using a passport with another person's name. As a result of this prior misrepresentation, the applicant is inadmissible under section 212(a)(6)(C) of the Act.

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 a U.S. citizen or lawfully resident spouse or parent of the applicant. Hardship to the applicant or her child is only relevant to the extent that it

causes hardship to the qualifying relative. 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 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 under *Matter of Cervantes-Gonzalez* is appropriate in this case. The AAO notes that extreme hardship to one of the qualifying relatives must be established in the event that they relocate to the Philippines or in the event that they remain in the United States, as they are not required to reside outside of the United States based on denial of the applicant's waiver request.

The first part of the analysis requires the applicant to establish extreme hardship to a qualifying relative in the event of relocation to the Philippines. In regard to the applicant's spouse, he states that his parents reside with him, his sister resides less than ten miles from him and he is very close with his family. *Statement of the Applicant's Spouse*, at 2, dated February 1, 2001. The applicant's spouse states that he has been working in the printing business for almost twenty years and it would be very difficult for him to find a position in the Philippines due to his age. *Id.* at 3. However, there is no evidence substantiating this claim. In addition, he states that he may have to relinquish his house and he would feel emotional hardship as his parents, who live in the house, would be displaced. *Id.* at 4. There is no indication that they cannot find alternative housing. He also states that he has lived in the United States for over fifteen years and detachment from his family, friends and community would cause him hardship. *Id.* The AAO notes that the applicant's spouse is originally from the Philippines and is therefore, familiar with the language and culture. In addition, the record does not include any indication of significant conditions of health. There are no contentions made in regard to hardship to the applicant's parents. Therefore, based on the record, the applicant has not established extreme hardship to a qualifying relative in the event of relocation to the Philippines.

The second part of the analysis requires the applicant to establish extreme hardship to a qualifying relative in the event that they remain in the United States. In regard to the applicant's spouse, counsel states that he has been married to the applicant for seven years, they depend on each other emotionally, psychologically and financially and separation will cause severe disruption and chaos in their life. *Brief in Support of Appeal*, at 3. The applicant's spouse states that without the applicant's income, they cannot pay the mortgage and the property will be foreclosed. *Second Statement of the Applicant's Spouse*, dated February 27, 2004. In regard to the applicant's parents, counsel states that they are morally, financially and physically dependent on their daughter. *Id.* at 4. Counsel asserts that as part of the Filipino culture, the applicant cares for her parents, they have been accustomed to this way of existence and leaving them would devastate them emotionally. *Id.* The applicant's parents state that the applicant takes care of them while they are sick and drives them to the medical clinic for their physical check-ups. *Statement of the Applicant's Parents*, dated February 26, 2004.

The AAO notes that separation entails inherent emotional stress and financial and logistical problems which are common to those involved in the situation. However, the record does not demonstrate extreme hardship to the applicant's spouse or parents should they remain in the United States without the applicant. In addition, the record indicates that the applicant's brother resides nearby and there is nothing in the record to indicate that he couldn't be of assistance to his parents.

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.

Moreover, the AAO notes that 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. The AAO recognizes that the applicant's spouse and parents will endure hardship as a result of separation from the applicant and is sympathetic to their situation. However, their situation, based on the record, is typical to individuals separated as a result of deportation or exclusion and does not rise to the level of extreme hardship.

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 or parents 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 she merits a waiver as a matter of discretion. Therefore, counsel's assertions regarding her positive attributes will not be addressed.

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.