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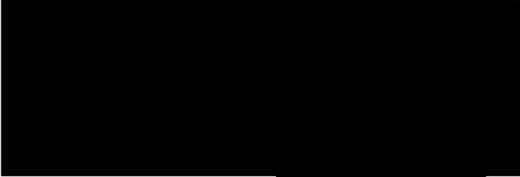
U.S. Department of Homeland Security  
20 Mass, N.W. Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
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HL2

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FILE:

Office: LOS ANGELES, CA

Date: NOV 01 2006

IN RE:



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 cursive script, 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 dismissed.

The applicant is a native and citizen of the Philippines who was found to be inadmissible to the United States (U.S.) 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 into the United States by fraud or willful misrepresentation on April 9, 1997. The applicant is married to a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The district director concluded that the assertions provided in the affidavit of the applicant's spouse and the evidence in the record did not support a finding that the applicant's spouse would experience extreme hardship as a result of the applicant's removal from the United States. The application was denied accordingly. *Decision of the District Director*, dated January 18, 2005.

On appeal, counsel states that the applicant's spouse will suffer extreme hardship if the applicant is removed from the United States. Counsel also submits financial statements; photographs; an affidavit from the applicant's spouse; employment letters; and reference letters. *Form I-290B*, dated February 15, 2005. In addition, in his appeals brief, counsel asserts that forcing the applicant's spouse to move to the Philippines would be an extreme hardship; the director disregarded the spouse's love and devotion to the applicant without looking to the specifics of their marital relationship and family bond; the applicant's spouse would suffer financially as a result of the applicant's inadmissibility and the director did not consider the spouse's hardships in their totality. *Counsel's Appeals Brief*, dated March 13, 2005.

The record indicates that on April 9, 1997, the applicant presented a Filipino passport with a fraudulent Form I-551 stamp at the Los Angeles Port of Entry, in an attempt to gain 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.

Section 212(i) of the Act provides that a waiver of the bar to admission resulting from section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family

member. Hardship the alien herself experiences due to separation is irrelevant to section 212(i) waiver proceedings unless it causes hardship to 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).

The AAO notes that extreme hardship to the applicant's spouse must be established in the event that he resides in the Philippines or in the event that he resides in the United States, as he is not required to reside outside of the United States based on the denial of the applicant's waiver request. The AAO will consider the relevant factors in adjudication of this case.

In his appeal's brief, counsel asserts that the applicant's spouse would suffer extreme hardship as a result of the applicant being denied admission to the United States. He states that the applicant's spouse is completely assimilated into American life and culture. Counsel asserts that the applicant and her spouse have established a life together in the United States. They have been married since 1997 and they purchased a home together in California. Counsel also asserts that if the applicant were denied admission to the United States, then her spouse would have to choose between relocating to the Philippines or staying in the United States. Counsel asserts that relocating to the Philippines would be an extreme hardship for the applicant's spouse because he would be leaving the life he has built for himself in the United States.

In the applicant's spouse's affidavit, he states that he cannot imagine life without the applicant. He states that the applicant is always there for him whenever he needs help. The applicant's spouse states that he has high blood pressure and that the applicant patiently takes care of him. He states that he does not think he can live without the applicant. No medical records were submitted with the applicant.

The AAO notes that the current record does not establish that the applicant's spouse would suffer extreme hardship as a result of the applicant's removal from the United States. There was no documentary evidence submitted nor were there any details given to support counsel's assertion that the applicant's spouse would suffer extreme hardship as a result of relocating to the Philippines. The applicant's spouse did not address the issue of relocation in his affidavit and the record does not establish how the spouse's situation would be above and beyond the normal hardships faced by someone relocating to a foreign country.

Furthermore, the current record does not establish that the applicant would suffer extreme hardship as a result of being separated from the applicant. The applicant's spouse did not establish that he requires the care of the applicant to maintain his wellbeing. The applicant's spouse stated that he would suffer emotionally from separation, but did not provide any documentation regarding the extent of this emotional suffering or that it was beyond what would normally be expected upon removal of a family member. Counsel asserts that the director disregarded the spouse's love and devotion to the applicant. The AAO notes that the issue of family separation is given considerable weight in determining extreme hardship. In addition, counsel asserts that the applicant would suffer financially as a result of being separated from the applicant. He states that the applicant and her spouse have a mortgage together and that the spouse's health insurance is through the applicant's employer. Counsel does not establish why the applicant's spouse is not working and/or why he cannot obtain his own health insurance. The AAO recognizes that the applicant's spouse will endure hardship as a result of separation from the applicant. However, he has not shown how his situation is different than other individuals separated as a result of removal and how his situation rises 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.

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's spouse 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.

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.