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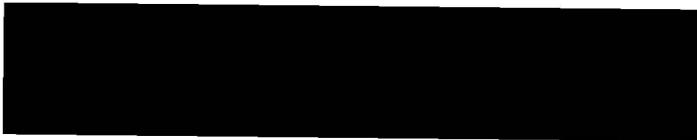
Date: SEP 18 2006

IN RE:



APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the
Immigration and Nationality Act (the 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The district director denied the waiver application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant [REDACTED] (Mrs. [REDACTED]) is a native and citizen of the Philippines who entered the United States on January 30, 1988, using a fraudulent passport, and applied for adjustment of status on April 26, 2001. She was found to be inadmissible 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 sought to procure admission into the United States by fraud or willful misrepresentation. In order to remain in the United States with her U.S. citizen (USC) spouse, parents and child, the applicant seeks a waiver of inadmissibility under section 212(i) of the Act, 8 U.S.C. § 1182 (i).

The record reflects that Mrs. [REDACTED] used a fraudulent passport and visa for entry into the United States in 1988. As a result of this misrepresentation, the director found the applicant to be inadmissible to the United States. *District Director's Decision*, dated January 31, 2005. The district director also found 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 Inadmissibility (Form I-601). *Id.*

On appeal, counsel does not submit a brief, but instead submits two hardship statements from the applicant and her husband, asserting that they care for each other and their daughter very much and mutually support each other.

In addition to the two hardship statements submitted on appeal, the record includes: a previously submitted hardship statement from the applicant's husband; the naturalization certificates of the applicant's husband, mother and father; the birth certificate of the applicant's daughter; 19 photographs of the applicant with her husband, daughter, and other family members; the applicant's marriage certificate; and income tax records for 1999-2001. The AAO reviewed the entire record in arriving at a decision on the appeal.

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 inadmissibility is dependent upon a showing that the bar to admission imposes an extreme hardship on the USC or lawful permanent resident (LPR) spouse or parent of the applicant. Hardship to the applicant herself is not a permissible consideration under the statute, nor is hardship to her USC daughter. If extreme hardship to a qualifying relative, in this case the applicant's husband or parents, is established, the Secretary then assesses whether an exercise of discretion is warranted. Section 212(h) of the Act; see also *Matter of Mendez*, 21 I&N Dec. 296 (BIA 1996).

The concept of extreme hardship to a qualifying relative "is not . . . fixed and inflexible," and whether extreme hardship has been established is determined based on an examination of the facts of each individual case. *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565 (BIA 1999). In *Matter of Cervantes-Gonzalez*, the Board of Immigration Appeals set forth a list of non-exclusive factors relevant to determining whether an applicant has established extreme hardship to a qualifying relative pursuant to section 212(i) of the Act. These factors include, with respect to the qualifying relative, the presence of family ties to U.S. citizens or lawful permanent residents in the United States, family ties outside the United States, country conditions where the qualifying relative would relocate and family ties in that country, the financial impact of departure, and significant health conditions, particularly where there is diminished availability of medical care in the country to which the qualifying relative would relocate. *Id.* at 566.

It is clear from the record that the applicant and her spouse care very much for each other and their daughter. They have not, however, shown why they could not all live together in the Philippines if the applicant's application for admission is denied. They state that they became certified administrators for residential care facilities for the elderly and have received a business permit and license to operate the business. They did not, however, submit documentation to support this assertion. 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)). Even if the applicant had submitted documents to show that she and her husband run their own business in the United States, this fact alone would be insufficient to show that their relocation to the Philippines would result in extreme hardship to her husband or parents.

Other than statements from the applicant and her husband, in which they note their love for and emotional attachment to each other, (See Affidavit of [REDACTED] and Affidavit of [REDACTED]), there is nothing in the record to show any hardship they would suffer if the applicant were denied admission to the United States beyond what is normally associated with family separation. The evidence does not indicate that the applicant's qualifying relatives, either her husband or her parents, would suffer financial hardship if they remain in the United States. Although it is clear that her parents and her husband would suffer emotionally, if she returned to the Philippines and they remained here, they face the same decision that confronts others in their situation – the decision whether to remain in the United States or relocate to avoid separation – and this does not amount to extreme hardship under the law as it exists today.

The record, reviewed in its entirety and in light of the *Cervantes-Gonzalez* factors, cited above, does not support a finding that the applicant's husband or parents face extreme hardship if the applicant is refused admission. 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 individuals who are deported.

In this case, though the applicant's qualifying relatives will endure emotional hardship if they remain in the United States separated from the applicant, their situation, based on the record, does not rise to the level of extreme hardship. The AAO therefore finds that the applicant failed to establish extreme hardship to her U.S. citizen spouse or parents as required under section 212(i) of the Act, 8 U.S.C. § 1186(h). 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 rests 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.