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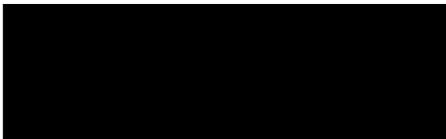
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U.S. Department of Homeland Security
20 Massachusetts Ave. N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

H2



FILE:



Office: SAN FRANCISCO, CA

Date:

DEC 05 2007

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:



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, San Francisco, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant, [REDACTED], 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). The applicant sought a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), which the district director denied, finding the applicant failed to establish extreme hardship to a qualifying relative. *Decision of the District Director*, dated August 11, 2004.

The AAO will first address the finding of inadmissibility pursuant to section 212(a)(6)(C)(i) 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.

On appeal, counsel asserts that the applicant is not inadmissible under section 212(a)(6)(C)(i). He states that the applicant's misrepresentation of seeking to adjust under the priority date of family first preference status, although the applicant was in fact married, is not material since the applicant's actual status of family third preference was current at the time of the applicant's adjustment of status interview. Counsel points to the State Department's Foreign Affairs Manual, 9 FAM 40.63 N6.3-5, and *Matter of S- and B-C-*, 9 I&N 436 (BIA 1960; A.G. 1961), to show the applicant's misrepresentation is not material. Counsel states that the applicant's statement on the Biographical Information Form (G-325A), indicating that he has been working and residing in the United States since January 1995 is not inconsistent with his statement that he never "procured or attempted to procure a visa, other documentation . . . by fraud or willful misrepresentation of a material fact" since work authorization is not a benefit under the Act; and counsel refers to *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 571 (BIA 1999) and *Matter of Lazarte*, in support of his assertion.

The elements of a material misrepresentation are set forth in *Matter of S- and B-C-*, 9 I&N Dec. 436 (BIA 1960; AG 1961) as follows:

A misrepresentation made in connection with an application for visa or other documents, or with entry into the United States, is material if either:

1. the alien is excludable on the true facts, or
2. the misrepresentation tends to shut off a line of inquiry which is relevant to the alien's eligibility and which might well have resulted in a proper determination that he be excluded.

The record reflects that the applicant testified that he entered the United States as a crewman in 1994 and remained illegally in the country. *Report of Deserting Crewman; District Director's Decision dated August 11, 2004; Form I-485, Application to Register Permanent Residence or Adjust Status*. The record reflects that on January 12, 1998, the applicant filed his first adjustment application (Form I-485) based on an approved visa

petition classifying him under section 203(a)(1) of the Act as the unmarried son of a U.S. citizen. Section 245 of the Act provides for adjustment of status to an alien lawfully admitted for permanent residence if:

- (1) the alien makes an application for such adjustment, (2) the alien is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

On February 16, 1999 and January 21, 2000 the applicant was interviewed before an immigration officer; he gave sworn testimony that his marital status was single. The record reflects that the applicant was married on September 29, 1993 in the Philippines. *District Director's Decision dated August 11, 2004; Record of Sworn Statement, dated January 21, 2000.* The applicant's adjustment application was denied on January 31, 2000. The applicant filed a second adjustment of status application on December 5, 2001, which was denied on August 11, 2004.

Counsel asserts that the misrepresentation of marital status on the first application to adjust status is not material on the ground that the family third preference priority date was current at the time of the adjustment interview.

The AAO finds counsel's assertion unpersuasive. The Notice of Approval of Relative Immigrant Visa Petition contained in the record shows the applicant's priority date as October 31, 1986. The record shows when the applicant filed the first adjustment of status application on January 12, 1998, the priority date for family third preference for his state of chargeability, the Philippines, was August 8, 1986 and the family first preference date was November 8, 1986. *U.S. State Department's Visa Bulletin for the Month of January 1998.* Thus, when the applicant filed the adjustment application on January 12, 1998 the priority date for family third preference status was not current as there was a waiting period. However, since the applicant misrepresented his marital status as single when he filed the adjustment application, he was able to forego the third preference waiting period and take advantage of first preference status, which was current. Counsel asserts that at the time of the adjustment interview the applicant's third preference status was current. However, this does not change the fact that the applicant misrepresented his marital status as unmarried when he filed the adjustment application for the purpose of qualifying for first preference status, which allowed him to take advantage of no waiting period. The language in 9 FAM 40.63 N6.3-5 states:

N6.3-5. Application of Phrase "In a Proper Refusal if the Truth Had Been Known"

a. In most cases, in order for a fact to be considered material, the truth of the matter must lead to a proper finding of ineligibility. With the exception of the types of cases discussed in 9 FAM 40.63 N6.2-1, if the facts support a finding that the alien is eligible for a visa, the misrepresented fact is not material.

(1) If an alien were to make a misrepresentation to establish an advantageous immigrant visa status and it were discovered that the alien was, in truth, entitled to another equally advantageous status, the misrepresentation would not be considered to be material. For example, if the son or daughter of an American citizen were to misrepresent marital status as being unmarried for the purpose of qualifying for first preference status, and was in fact

married and thus qualified for only third preference consideration, but the third preference was currently available for the alien's state of chargeability, the misrepresentation shall not be considered material. If, however, there were a waiting period for third preference applicants in the state of the alien's chargeability or worldwide, the alien shall then be found to have sought an unwarranted advantage by means of a willful misrepresentation and the misrepresentation would, therefore, be material.

(2) If an alien were to make a misrepresentation in order to enhance or exaggerate the alien's qualifications for a visa, but the facts alone were sufficient to establish qualifications, the misrepresentation would not be considered to be material. For example, if an alien were to misrepresent employment prospects in the United States as a means of establishing qualifications for a visa under INA 212(a)(4), and it were discovered that, in truth, the alien had other comparable employment or other satisfactory prospects, the misrepresentation is not considered material.

b. Once it has been established that a misrepresentation was made in securing a visa, the burden is on the person making the misrepresentation to establish that the facts support eligibility or that, had the consular officer known the truth, a refusal of a visa could not properly have been made. The consular officer shall be receptive to any further evidence the alien may provide in order to ensure that a proper finding has been made. To quote further from the Attorney General's opinion:

"The law recognizes numerous situations in which one who, by his intentional and wrongful act, has prevented or restricted an inquiry into relevant facts bears the burden of establishing the true facts and the risk that any uncertainties resulting from his own obstruction of the inquiry may be resolved against him." (9 I&N Dec. 449 N Dec. 4499.)

The AAO finds that the documentation in the record supports the finding that the applicant willfully misrepresented the material fact of his marital status so as to take advantage of the first preference status' no waiting period at the time he filed the adjustment application. The finding is supported by the aforesaid language in the Foreign Affairs Manual that states that if "there were a waiting period for third preference applicants . . . , the alien shall then be found to have sought an unwarranted advantage by means of a willful misrepresentation and the misrepresentation would, therefore, be material." Thus, the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act.

The AAO will now address the finding that the grant of a waiver of inadmissibility is not warranted.

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 to the applicant and his child is not a consideration under the statute, and unlike section 212(h) of the Act where a child is included as a qualifying relative, they are not included under section 212(i) of the Act. Thus, hardship to the applicant and his child will be considered only to the extent that it results in hardship to a qualifying relative, who in this case is the applicant's mother. 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).

"Extreme hardship" is not a definable term of "fixed and inflexible meaning"; establishing extreme hardship is "dependent upon the facts and circumstances of each case." *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565 (BIA 1999). The Board of Immigration Appeals (BIA) in *Matter of Cervantes-Gonzalez* lists the factors it considers relevant in determining whether an applicant has established extreme hardship pursuant to section 212(i) of the Act. The 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. *Id.* at 565-566. The BIA indicated that these factors relate to the applicant's "qualifying relative." *Id.* at 565-566.

In *Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996), the BIA stated that the factors to consider in determining whether extreme hardship exists "provide a framework for analysis," and that the "[r]elevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists." It further stated that "the trier of fact must consider the entire range of factors concerning hardship in their totality" and then "determine whether the combination of hardships takes the case beyond those hardships ordinarily associated with deportation." (citing *Matter of Ige*, 20 I & N Dec. 880, 882 (BIA 1994).

Extreme hardship to the applicant's mother must be established in the event that she joins the applicant; and in the alternative, that she remains in the United States. A qualifying relative is not required to reside outside of the United States based on the denial of the applicant's waiver request.

The record contains a psychological evaluation, dated September 20, 2003, of the [REDACTED] family by Dr. [REDACTED]. The evaluation states that the applicant's mother, [REDACTED], is so concerned about her son's immigration status that she shows symptoms of depression and finds it difficult to eat and sleep. Dr. [REDACTED] states that the applicant's mother is worried about the breakup of her family if her son were to leave the country, her son's future in the Philippines, and not being able to be with her son when she dies. Dr. [REDACTED] diagnosed the applicant's mother with major depressive disorder and acute stress disorder. Dr. [REDACTED] also diagnosed the applicant and his wife, and his brother-in-law. Dr. [REDACTED] stated that the applicant and his mother, wife, and brother-in-law should seek a psychiatric evaluation for anti-

depressant, anti-anxiety, and sleeping medications and should seek a psychiatrist, psychologist, social worker, or other mental health professional to prevent post-traumatic stress syndrome and deal with depression and anxiety. Dr. [REDACTED] indicates that the applicant's mother has problems with walking, arthritis, and high blood pressure, and that she takes medication for a heart condition, and has swelling in areas of her body.

The medical records from Kaiser Permanente pertaining to the applicant's mother reflect that she has hypertension and osteoarthritis.

The employment letter dated August 27, 2003 from [REDACTED] shows the applicant as earning \$15.00 per hour.

The Survivorship Affidavit conveys that the applicant's mother owns real property in South Bend, Indiana, for which she entered into a loan in the amount of \$52,000, with monthly payments of \$444.86. *Adjustable Rate Note entered into on August 27, 2003.* The record contains documents relating to the insurance and taxes for the real property.

The record contains the U.S. Department of State Country Report on Human Rights Practices in the Philippines for 2002.

In the affidavit executed on September 5, 2003, Ms. [REDACTED] indicates that she has four sons and a daughter and their spouses who are either U.S. citizens or legal permanent residents and that she has no family ties outside the United States. She states that she lived in the United States for 24 years and is now 71 years old. She conveys that she has adopted the country's culture, has made friends here, attends mass, and acquired investments and savings accounts. She states that she will have nothing if she returns to the Philippines. She states that she has hypertension and arthritis and requires a special diet and medication. She states that she is depressed about her son's immigration problem and this has affected her physical health. Ms. [REDACTED] states that she is not confident that her medical needs will be met in the Philippines and she indicates that she will lose her Kaiser Permanente medical and health coverage. She states that the Philippines' economy and political climate are unstable and that she may not have the reasonable necessities in life there and her life may be in danger due to the country's political situation. Ms. [REDACTED] states that as a U.S. citizen she cannot stay indefinitely in the Philippines and cannot afford to pay immigration fees to stay for prolonged periods in the Philippines. She states that she lives with the applicant and his wife in San Francisco and they help her financially by paying taxes and insurance on her house and paying utility and telephone bills and other expenses. She states that she does not want to live alone in the Indiana house as she wants her son and daughter-in-law to live with her when she moves there and she wants her grandchildren to play there. Ms. Garcia indicates that her other children are not able to assist her financially. She states that she pays a monthly mortgage of \$444.86, \$1,155 in insurance annually, \$353.09 monthly for house maintenance, and \$80 monthly for life insurance. She states that her monthly pension is \$960 and that she would lose everything if she were in the Philippines: her retirement, insurance and medical benefits, and her Indiana house. She states that she needs her son in the United States to help her financially; to take her to doctor's appointments, to accompany her to church and to buy groceries, to ensure she takes medication, to help her walk, and to be her companion. She conveys that if she were to remain in the United States she would not be able to visit her son in the Philippines due to cost and would not be able to financially support him; she states that she worries that he will have a bleak future in the Philippines, living in poverty. Ms. [REDACTED] states that her family will not be complete without the applicant.

The record fails to establish that the applicant's mother would endure extreme hardship if she remained in the United States without him.

Ms. [REDACTED] claims that she would experience financial hardship if she remained in the United States without her son. However, the application provided no supporting documentation of his mother's income or documentation to show that his siblings are not able to financially assist their mother. 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)). The AAO notes that Ms. [REDACTED]'s second Affidavit of Support Under Section 213A of the Act, submitted on behalf of the applicant, reflects that someone other than the applicant and his wife, live with Ms. [REDACTED] at the San Francisco residence. Thus, the AAO finds that the record is insufficient to establish that Ms. [REDACTED] needs financial help from the applicant in order to meet monthly household expenses.

To establish extreme hardship to his mother the applicant submitted an evaluation from Dr. [REDACTED]. With regard to the evaluation, although the input of any mental health professional is respected and valuable, the AAO notes that the observations made in the evaluation are based on a single interview between the applicant's mother and Dr. [REDACTED]. The record fails to reflect an ongoing relationship between a mental health professional and the applicant's mother or any history of treatment for the major depression and acute distress disorder experienced by the applicant's mother. The AAO finds that the conclusions reached in the submitted evaluation, being based on a single interview, do not reflect the insight and elaboration commensurate with an established relationship with a psychologist or mental health professional, thereby rendering Dr. [REDACTED]'s findings speculative and diminishing the evaluation's value to a determination of extreme hardship.

In the appeal brief dated September 27, 2004, counsel states that *Mejia-Carrilo v. INS*, 656 F.2d 520 (9th Cir. 1981) indicates that separation from family alone may constitute extreme hardship; *Cerrillo-Perez v. INS*, 809 F.2d 1419 (9th Cir. 1987) indicates that separation of family members may constitute extreme hardship; and *Bastidas v. INS*, 609 F.2d 101 (3rd Cir. 1979) held that family and family relationships hold a place of central importance in the nation's history and are a fundamental part of the society's values. Counsel states that the preservation of family is recognized in admitting refugees to a country in the United Nations High Commissioner for Refugees, Handbook on Procedures and Criteria for Determining Refugee Status, 43-4 (1979). He states that the Universal Declaration of Human Rights, G.A. Res. 217, U.N. Doc. A810 states that families are entitled to protection by society and the states; and that H.R. Rep. No. 85-1199 indicates that families should be united.

The AAO agrees that courts in the United States have stated that "the most important single hardship factor may be the separation of the alien from family living in the United States," and also, "[w]hen the BIA fails to give considerable, if not predominant, weight to the hardship that will result from family separation, it has abused its discretion." *Salcido-Salcido v. INS*, 138 F.3d 1292, 1293 (9th Cir. 1998) (citations omitted); *Cerrillo-Perez v. INS*, 809 F.2d 1419, 1424 (9th Cir. 1987) (remanding to BIA) ("We have stated in a series of cases that the hardship to the alien resulting from his separation from family members may, in itself, constitute extreme hardship.") (citations omitted).

The record reflects that the applicant and his wife have a child who was born on August 22, 2004. However, the fact that the applicant has a U.S. citizen child is not sufficient, in itself, to establish extreme hardship. The BIA has held that birth of a U.S. citizen child is not per se extreme hardship. *Matter of Correa*, 19 I&N Dec. 130 (BIA 1984). In *Marquez-Medina v. INS*, 765 F.2d 673 (7th Cir. 1985), the Seventh Circuit has stated that an illegal alien cannot gain a favored status merely by the birth of a citizen child. The Ninth Circuit has found that an alien illegally present in the United States cannot gain a favored status merely by the birth of his citizen child. *Lee v. INS*, 550 F.2d 554 (9th Cir. 1977). In a per curiam decision, *Banks v. INS*, 594 F.2d 760 (9th Cir. 1979), the Ninth Circuit found that an alien, illegally within this country, cannot gain a favored status on the coattails of his (or her) child who happens to have been born in this country.

Furthermore, in *Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991), the Ninth Circuit upheld the BIA's finding that deporting the applicant and separating him from his wife and child was not conclusive of extreme hardship as it "was not of such a nature which is unusual or beyond that which would normally be expected from the respondent's bar to admission." (citing *Patel v. INS*, 638 F.2d 1199, 1206 (9th Cir.1980) (severance of ties does not constitute extreme hardship). In *Shoostary v. INS*, 39 F.3d 1049 (9th Cir. 1994), the court upheld the finding of no extreme hardship if Shoostary's lawful permanent resident wife and two U.S. citizen children are separated from him. As stated in *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), "[e]xtreme hardship" is hardship that is "unusual or beyond that which would normally be expected" upon deportation and "[t]he common results of deportation or exclusion are insufficient to prove extreme hardship." (citing *Hassan v. INS*, 927 F.2d 465, 468 (9th Cir.1991)). In *Sullivan v. INS*, 772 F.2d 609, 611 (9th Cir. 1985), the Ninth Circuit stated that deportation is not without personal distress and emotional hurt; and that courts have upheld orders of the BIA that resulted in the separation of aliens from members of their families in *Amezquita-Soto v. INS*, 708 F.2d 898, 902 (3d Cir.1983) (finding that neither petitioner nor his daughter would suffer extreme hardship if the petitioner were deported because the grandmother had raised and could care for the child); *Guadarrama-Rogel v. INS*, 638 F.2d 1228, 1230 (9th Cir.1981) (separation of parents from alien son is not extreme hardship where other sons are available to provide assistance); *Banks, supra* at 763 (separation of a mother from a grown son who elects to live in another country is not extreme hardship); and in *Dill v. INS*, 773 F.2d 25 (3rd Cir. 1985) (affirming the BIA's finding of no extreme hardship to the petitioner or to the couple that raised her on account of separation, as the petitioner "is an adult who can establish her own life and need not depend primarily on her parents for emotional support in the same way as a young child").

The record conveys that the applicant's mother is very concerned about separation from him and about the breakup of her family. The AAO is mindful of and sympathetic to the emotional hardship that is undoubtedly endured as a result of separation from a loved one. After a careful and thoughtful consideration of the record, however, the AAO finds that the situation of the applicant's mother, if she remains in the United States, is typical to individuals separated as a result of removal and does not rise to the level of extreme hardship as defined by the Act. The record before the AAO is insufficient to show that the emotional hardship, which will be experienced by the applicant's mother, is unusual or beyond that which is normally to be expected upon removal. Moreover, the record reflects that Ms. [REDACTED] is not alone in the United States; except for the applicant, all of her adult children are here. The AAO finds that the record before it, in light of the decision in *Hassan, Shoostary, Perez, Amezquita-Soto, Guadarrama-Rogel, Banks, and Dill, supra*, is not sufficient to establish that separation from the applicant would constitute extreme hardship to Ms. [REDACTED]

Counsel asserts that Ms. [REDACTED] "cannot completely take care of herself without the [a]pplicant's assistance" as she has "trouble walking because of painful arthritis in her knee, and suffers from hypertension." *Counsel's brief, dated September 27, 2004.* The Kaiser Permanente medical records reflect that Ms. [REDACTED] has hypertension and osteoarthritis; however, they do not convey that Ms. [REDACTED] is unable to walk and take care of herself without the assistance of her son.

In the appeal brief, counsel states that the removal of the applicant's son from the United States will cause extreme hardship to Ms. [REDACTED] given the child's medical problems. Although the medical records convey the applicant's son was born with a cleft palate, the document from [REDACTED] dated August 30, 2004 indicates that his son's cleft palate was to be referred for surgical correction when the child was three months old.

The record is insufficient to establish that the applicant's mother would endure extreme hardship if she joined him in the Philippines.

Counsel states that Ms. [REDACTED] would experience great financial hardship in the Philippines as its economy is in shambles. He states that for health reasons Ms. [REDACTED] is unable to work and that the applicant would not find work on account of his age. To show the condition of the Philippine's economy, the record contains a newspaper article and a U.S. Department of State Country Report on the Philippines. The AAO finds that these documents are insufficient to substantiate the claim that the applicant would not be able to support his mother in the Philippines as "[g]eneral economic conditions in an alien's native country will not establish "extreme hardship" in the absence of evidence that the conditions are unique to the alien." *Kuciemba v. INS*, 92 F.3d 496, 500 (7th Cir. 1996) (citation omitted).

As for the claim that medical care in the Philippines is inferior to care offered in the United States, the fact that medical facilities in a foreign country are not as good as in the United States is not per se extreme hardship. *Matter of Correa*, 19 I&N Dec. 130, 134 (BIA 1984). Although Ms. [REDACTED] indicates that she will lose her medical benefits if she were to join the applicant, no evidence has been submitted in support of this assertion, nor has evidence been presented to show that Ms. [REDACTED] would be unable to obtain health insurance in the Philippines. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici, supra*.

No evidence has been presented in support of Ms. [REDACTED] claim that she would lose her retirement and Indiana house if she joined the applicant. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici, supra*.

With regard to Ms. [REDACTED] statement that she would lose her life insurance if she were in the Philippines, the loss of a job along with its employee benefits is not extreme or unique economic hardship, but is a normal occurrence when an alien is deported. *Marquez-Medina v. INS*, 765 F.2d 673, 677 (7th Cir. 1985). Because life insurance is offered as an employee benefit, the loss of life insurance would not constitute extreme hardship.

Counsel claims that the Philippines would be dangerous because of terrorist threats. No evidence has been presented of specific incidents of threats or violence directed against the applicant or his mother. "General economic conditions in an alien's native country will not establish "extreme hardship" in the absence of

evidence that the conditions are unique to the alien.” *Kuciemba v. INS, supra*. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici, supra*.

Ms. [REDACTED] indicates that her family ties are in the United States and that she has spent 24 years living here. The AAO recognizes that Ms. [REDACTED] adjustment to the culture and environment in the Philippines would be difficult; but these difficulties would be mitigated by the moral support of her son and his wife, which are her family ties to the Philippines. Furthermore, as previously stated, courts in the United States have held that separation from one’s family need not constitute extreme hardship. See, *Sullivan v. INS*, 772 F.2d 609, 611 (9th Cir. 1985), *Amezquita-Soto v. INS*, 708 F.2d 898, 902 (3d Cir.1983), *Guadarrama-Rogel v. INS*, 638 F.2d 1228, 1230 (9th Cir.1981), *Banks v. INS*, 594 F.2d 760, 763 (9th Cir. 1979), *Dill v. INS*, 773 F.2d 25 (3rd Cir. 1985), *Shooshtary v. INS*, 39 F.3d 1049 (9th Cir. 1994), *Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991), and *Patel v. INS*, 638 F.2d 1199, 1206 (9th Cir.1980).

Counsel states that case law indicates that the evidence of extreme hardship must be considered in totality. In considering the hardship factors raised here, the AAO examines each of the factors, both individually and cumulatively, to determine whether extreme hardship has been established. It considers whether the cumulative effect of claims of economic and emotional hardship would be extreme, even if, when considered separately, none of them would be. It considers the entire range of factors concerning hardship in their totality and then determines whether the combination of hardships takes the case beyond those hardships ordinarily associated with removal.

In the final analysis, the AAO finds that the requirement of significant hardships over and above the normal economic and social disruptions involved in removal has not been met so as to warrant a finding of extreme hardship. Having carefully considered each of the hardship factors raised, both individually and in the aggregate, it is concluded that these factors do not in this case constitute extreme hardship to a qualifying family member for purposes of relief under 212(i) of the Act, 8 U.S.C. § 1182(i).

Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether the applicant 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. The applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.