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FILE: [REDACTED] Office: MANILA, PHILIPPINES Date: FEB 13 2007

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: 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.

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 Acting Director, Manila, Philippines. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that 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 Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for attempting to obtain a visa to enter the United States based on a relationship that was solely for the purpose of obtaining immigration benefits. The record indicates that the applicant's spouse is a naturalized United States citizen and she is the beneficiary of an approved Petition for Alien Relative (Form I-130). The applicant 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 United States citizen husband.

The Acting Director found that the applicant failed to establish that extreme hardship would be imposed on the applicant's United States citizen spouse and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Acting District Director Decision*, dated June 28, 2005.

On appeal, the applicant states that the denial of her admission into the United States would result in extreme hardship to her United States citizen husband. *Form I-290B*, filed July 26, 2005.

The record includes, but is not limited to, the applicant's statement and her marriage certificate. The entire record was reviewed and considered in arriving at a decision on the appeal.

Section 212(a)(6)(C)(i) of the Act provides, in pertinent part, that:

- (i) In general.-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.
- ...
- (iii) Waiver authorized.-For provision authorizing waiver of clause (i), see subsection (i).

Section 212(i) of the Act provides, in pertinent part, that:

- (i) (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 immigrant 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...

In the present application, the record indicates that on December 12, 1996, and March 9, 1999, the applicant applied for a K-1 fiancé visa. The K-1 visa applications were denied based on the applicant's visa interview on December 13, 1996, wherein she was unable to establish a *bona fide* relationship with her fiancé. Additionally, during the interview, the applicant was unable to demonstrate any knowledge of basic information regarding her fiancé. On April 20, 2002, the applicant married Mr. [REDACTED], a naturalized United States citizen, in the Philippines. On June 5, 2002, Mr. [REDACTED] filed a Petition for Alien Relative (Form I-130) for the applicant, which was approved on March 20, 2003. On March 17, 2004, the applicant filed an Application for Immigrant Visa and Alien Registration, which was denied. On April 13, 2005, the applicant filed an Application for Waiver of Ground of Inadmissibility (Form I-601). On June 28, 2005, the Acting District Director denied applicant's Form I-601, finding the applicant failed to demonstrate extreme hardship to her United States citizen spouse.

The applicant is seeking a section 212(i) waiver of the bar to admission resulting from a violation of section 212(a)(6)(C)(i) of the Act. A waiver under section 212(i) 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 United States citizen 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).

In *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565-66 (BIA 1999), the Board of Immigration Appeals (BIA) provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship to a qualifying relative. 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.

The applicant asserts her husband would face extreme hardship if she were not allowed to enter the United States. The applicant claims that when she was in a relationship with her prior fiancé, she planned on coming to the United States to marry him; however, now she cannot find him. *Form I-290B*, filed July 26, 2005. She claims her prior fiancé committed the misrepresentation because he filed the K-1 visa applications. She states she thought she qualified for a waiver "as one having no properties to own like [herself]." *Id.* The applicant claims that her relationship with her husband is strong and they "are willing to fight for it"; however, they cannot "attain stability" while they are separated. *Supplement to Form I-601*, dated March 31, 2005. She states her husband is suffering from "extreme emotional and psychological hardship" and he cannot concentrate at his job because of the stress of being separated from the applicant. *Id.* The AAO notes the applicant's spouse failed to provide a statement or an affidavit regarding the extreme hardship he would suffer if the applicant were not allowed to enter the United States. Additionally, there are no professional evaluations for the AAO to review to determine what personal issues are affecting the applicant's husband's emotional and psychological wellbeing.

The applicant does not establish extreme hardship to her United States citizen spouse if he remains in the United States or if he joins her in the Philippines. The applicant's statements regarding the extreme hardship her spouse will suffer if she were not allowed to enter the United States were vague and not supported by documentation. The AAO notes that the applicant made no claim that her husband, also a native of the Philippines, would suffer any hardship if he joined the applicant in the Philippines. The AAO, therefore, finds the applicant has failed to establish extreme hardship to her spouse if he accompanies her to the Philippines.

United States 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, in *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), the BIA 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. In *Hassan, supra*, the Ninth Circuit Court of Appeals 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 AAO recognizes that the applicant's United States citizen husband will endure hardship as a result of his wife not being able to enter the United States. However, his situation is typical to individuals separated as a result of removal and does not rise to the level of extreme hardship.

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(a)(6)(C)(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.