



U.S. Citizenship
and Immigration
Services

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FILE:



Office: MANILA, PHILIPPINES

Date:

JAN 26 2007

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:

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 black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Acting District 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 entering the United States using a passport under a different name. The record indicates that the applicant's mother 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 enter the United States to help care for her mother.

The Acting District Director found that the applicant failed to establish that extreme hardship would be imposed on the applicant's United States citizen mother 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 mother. *Form I-290B*, filed July 25, 2005.

The record includes, but is not limited to, the applicant's statement and her mother's affidavit, dated April 8, 2005. 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 in February 1990, at the Portland, Oregon airport, the applicant presented a passport under a different name, in an attempt to enter the United States. The applicant was denied entry into the United States and was sent back to the Philippines. On April 12, 1990, the applicant's naturalized United States citizen mother filed a Form I-130 for the applicant, which was approved on November 10, 1993. The applicant filed an Application for Immigrant Visa and Alien Registration, which was denied on January 25, 2005. On May 2, 2005, the applicant filed an Application for Waiver of Ground of Inadmissibility (Form I-601). On June 28, 2005, the District Director denied applicant's Form I-601, finding the applicant failed to demonstrate extreme hardship to her United States citizen mother.

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 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).

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 mother would face extreme hardship if the applicant were not allowed to enter the United States. The applicant's mother claims having her daughter in the United States "would allow [her] to ease up on [her] work but remain a productive member of society." *See Affidavit of* [REDACTED] dated April 8, 2005. The applicant states her mother would not be able to find employment in the Philippines because of age discrimination. *See Addendum to Form I-290B*, filed July 25, 2005. The applicant's mother is employed as a seamstress in the United States, which allows her to "be productive and have a social life." *See Affidavit of* [REDACTED] dated April 8, 2005. The AAO notes that there is no evidence that the applicant provides any financial assistance to her mother. The applicant is married and has three children in the Philippines. In her visa application, the applicant claims that her husband and three children would accompany her to the United States. The applicant's mother states she does not want to return to the Philippines because it is dangerous. *Id.* The applicant cites the poor economic conditions and general instability in the Philippines as reasons that her mother cannot return there. *See Addendum to Form I-290B*, filed July 25, 2005.

The applicant does not establish extreme hardship to her United States citizen mother if she remains in the United States, with her mother maintaining her employment and her close proximity to her friends. The AAO notes that the applicant's mother would not suffer any economic loss if the applicant were not allowed to

enter the United States, since the applicant does not currently provide financial support to her mother. Additionally, beyond generalized assertions regarding country conditions in the Philippines, the record fails to demonstrate that the applicant, who already has a job in the Philippines, will be unable to contribute to her mother's financial wellbeing from a location outside of the United States. Moreover, the United States Supreme Court has held that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship. *INS v. Jong Ha Wang*, 450 U.S. 139 (1981).

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 mother will endure hardship as a result of her daughter not being able to enter the United States. However, her situation, if she remains in the United States, is typical to individuals separated as a result of deportation or exclusion 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 mother 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.