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U.S. Department of Homeland Security  
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U.S. Citizenship  
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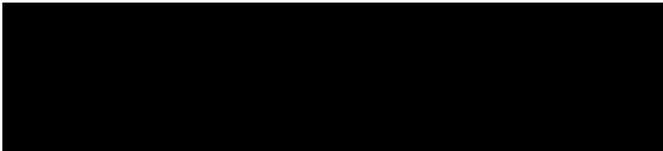
IN RE: Applicant:



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.

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, Chicago, Illinois, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Pakistan. The record reveals that the applicant presented a passport belonging to another individual when he entered the United States on September 12, 1994. The applicant was thus found to be inadmissible to the United States 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 entry to the United States by fraud or willful misrepresentation. 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), in order to reside in the United States with his U.S. citizen spouse.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the District Director*, dated December 19, 2005.

In support of the appeal, counsel for the applicant submits a brief, dated February 15, 2006; a letter from [REDACTED] the physician treating the applicant's spouse, dated February 14, 2006; internet print-outs regarding the applicant's spouse's medical condition and treatment; a Consular Information Sheet and a Travel Warning for Pakistan, issued by the U.S. Department of State; a copy a bulletin from the World Health Organization regarding emergency medical care in developing countries, dated November 11, 2002; a copy of the applicant's federal tax return for 2005; and a psychological evaluation in regards to the applicant and his spouse, dated January 25, 2006. The entire record was reviewed and considered in rendering this decision.

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.

Based on the evidence in the record, the applicant is inadmissible pursuant to section 212(a)(6)(C)(i) of the Act.

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 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...

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 alien has established extreme hardship to a qualifying relative. 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. The BIA held in *Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996) (citations omitted) that:

Relevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists. In each case, the trier of fact must consider the entire range of factors concerning hardship in their totality and determine whether the combination of hardships takes the case beyond those hardships ordinarily associated with deportation.

To begin, references are made to the hardship the applicant's spouse's adult son would face were the applicant removed. Section 212(a)(6)(C)(i) of the Act provides that a waiver under section 212(i) of the Act is applicable solely where the applicant establishes extreme hardship to his or her citizen or lawfully resident spouse or parent. Unlike waivers under section 212(h) of the Act, section 212(i) does not mention extreme hardship to a United States citizen or lawful permanent resident child. Nor is extreme hardship to the applicant himself a permissible consideration under the statute. In the present case, the applicant's spouse, a U.S. citizen, is the only qualifying relative, and hardship to the applicant or the applicant's spouse's adult son cannot be considered, except as it may affect 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).

Counsel first contends that the applicant's spouse will suffer extreme medical hardship were she to accompany the applicant abroad upon removal. To support this contention, counsel provides two letters, one dated June 28, 2004 and one dated February 14, 2006, purportedly from [REDACTED]. The AAO raises the following concerns regarding these letters:

1. The letters are not on official letterhead;
2. The signatures on the letters do not match, although they were both purportedly written by the same individual; and
3. In the letter dated February 14, 2006, [REDACTED] has apparently signed over white-out; under the white-out, however, is counsel's typewritten name.

Due to the above-referenced concerns, the letters from [REDACTED] regarding medical hardship can be given no weight.

Counsel also asserts that if the applicant's spouse relocated to Pakistan with the applicant, she would be in danger. Counsel provides a Travel Warning issued by the U.S. Department of State, dated January 27, 2006, stating that "...Due to on-going concerns about the possibility of terrorist activity directed against American citizens and interests, the Department of State continues to warn U.S. citizens to defer non-essential travel to Pakistan..." *Travel Warning, U.S. Department of State*, dated January 27, 2006.

Finally, counsel states that the applicant's spouse will suffer financial hardship were she to relocate to Pakistan with the applicant. As the applicant states, "...I came to the United States seeking a better life and healthier economic conditions. Pakistan did not offer me any opportunity to succeed because there weren't enough jobs for me...I have a college degree in accounting and I couldn't find a job in Pakistan. I couldn't make ends meet, so I came to America seeking the opportunity to make a living for myself..." *Affidavit of* [REDACTED], dated July 26, 2004.

Based on the record, it has been established that the applicant's spouse would suffer extreme hardship were she to relocate to Pakistan to reside with the applicant, due to the financial setbacks that the applicant's spouse would encounter which would have a direct impact on her quality of life and concerns for her safety due to violence and turmoil in the region.

In the alternative, counsel contends that the applicant's spouse will suffer emotional hardship were she to remain in the United States after the applicant is removed. Counsel supports this contention by providing a psychological evaluation prepared by [REDACTED] based on an interview she conducted with the applicant and his spouse on January 25, 2006. [REDACTED] "...[the applicant's spouse] is suffering from Major Depressive Disorder...I wish to emphasize that the condition described herein is not 'ordinary' depression, but represents a severe clinical syndrome of a major depressive disorder. If the separation should actually occur, I would expect her depression to exacerbate into an even more severe major depression, with serious risk of suicidal behavior. [REDACTED] depression is reactive in response to the possible breakup of her marriage, which has offered her the only period of sustained happiness in her adult life. If her husband is not permitted to stay in the U.S., I would not expect her to recover for many years and not fully even then. Since [REDACTED] depression is of a reactive, situational nature, it is highly unlikely that either anti-depressant medication or psychotherapy will alleviate the root cause of her problem..." *Psychological Evaluation Prepared by* [REDACTED], dated January 25, 2006.

An evaluation provided by a psychologist based on a one-time interview does not reflect the insight and elaboration commensurate with an established relationship with a mental health professional, thereby rendering the psychologist's findings speculative and diminishing the evaluation's value to a determination of extreme hardship. Moreover, although the psychologist has determined that the applicant's spouse is depressed, the psychologist makes no recommendations for the applicant's spouse's continued care, such as regular therapy sessions or other treatment, and/or medications, to further support the gravity of the situation. Finally, it has not been established that the applicant's spouse's situation is extreme as she is able to maintain long-term, full-time employment as a stitch operator, thereby permitting her to support her family as a the primary breadwinner.

The psychological evaluation of the applicant's spouse shows that the applicant has a very loving and devoted spouse who is extremely concerned about the prospect of the applicant's departure from the United States. Although the depth of concern and anxiety over the applicant's immigration status is neither doubted or minimized, the fact remains that Congress provided for a waiver of inadmissibility only under limited circumstances. In nearly every qualifying relationship, whether between husband and wife or parent and child, there is a deep level of affection and a certain amount of emotional and social interdependence. While, in common parlance, the prospect of separation or involuntary relocation nearly always results in considerable hardship to individuals and families, in specifically limiting the availability of a waiver of inadmissibility to cases of "extreme hardship," Congress did not intend that a waiver be granted in every case where a qualifying relationship, and thus the familial and emotional bonds, exist. The current state of the law, viewed from a legislative, administrative, or judicial point of view, requires that the hardship, which meets the standard in INA § 212(i), be above and beyond the normal, expected hardship involved in such cases.

As such, it has not been established that the applicant's spouse will suffer extreme hardship were the applicant removed while the applicant's spouse remained in the United States. The record indicates that the applicant is gainfully employed and has insurance benefits through her employment to which she can rely. In addition, the applicant's spouse has an adult son residing in Minnesota; counsel has not documented that he would be unable to assist the applicant's spouse, emotionally, financially and/or physically, should such assistance be required after the applicant has been removed. Finally, based on the applicant's spouse's long-term, gainful employment, it has not been established that the applicant's spouse would be unable to travel abroad to visit the applicant on a regular basis.

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 spouse will face extreme hardship if the applicant is removed. Rather, the record demonstrates that she will face no greater hardship than the unfortunate, but expected, disruptions, inconveniences, and difficulties arising whenever a spouse is removed from the United States. There is no documentation establishing that her financial, emotional or psychological hardship would be any different from other families separated as a result of immigration violations. Although the AAO is not insensitive to the applicant's spouse's situation, the record does not establish that the financial strain and emotional and psychological hardship she would face rise to the level of "extreme" as contemplated by statute and case law.

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. 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.