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U.S. Citizenship
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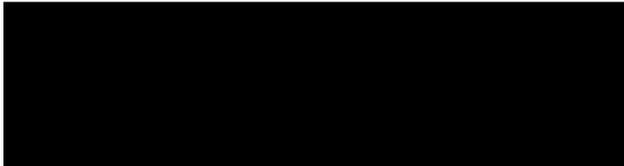
Applicant:



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, Los Angeles, 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), for seeking admission into the United States by fraud or willful misrepresentation. The applicant sought a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), which the OIC denied, finding the applicant failed to establish extreme hardship to a qualifying relative. *Decision of the District Director*, dated July 1, 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.

The record reflects that on November 23, 1998 the applicant gained admission into the United States by presenting to immigration officials a passport and a visa in the name of [REDACTED] *Form I-94, Departure Record; Philippine Passport in the Name of [REDACTED] Decision of the District Director, dated July 1, 2004.* The AAO finds that the documentation in the record supports the finding that the applicant willfully misrepresented a material fact, his true identity, to an immigration official so as to gain admission into the United States. The applicant is therefore 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 children are 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(a)(9)(B) of the Act. Thus, hardship to the applicant and his children will be considered only to the extent that it results in hardship to a qualifying relative, who in this case is the applicant's U.S. citizen wife, [REDACTED]. 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 wife 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 U.S. Department of State Country Report on Human Rights Practices in the Philippines for 2003 and another documents relating to the Philippines; birth certificates; a marriage certificate; a Judgment of Dissolution of Marriage; criminal records; employment verification letters; wage statements; income tax records; Form W-2 Statements; an Interspousal Transfer Deed and a Deed of Trust; documentation from a mortgage lender; health and car insurance documentation; a billing statement from Toyota; and other documents.

In the October 12, 2003 declaration, [REDACTED] states that she and the applicant have two U.S. citizen children. She states that she is the natural mother of [REDACTED] who was born on April 3, 1992 from a prior relationship, and for whom she has sole custody. [REDACTED] states that her former husband returned to the Philippines and has little communication with [REDACTED]. [REDACTED] indicates that she and her siblings were born in the United States, her parents are naturalized citizens of the United State, and she has no immediate family members living abroad. [REDACTED] asserts that her husband is the sole source of financial support, earning \$30.73 per hour. She states that her husband paid \$415,000 for the home where they have lived since 2002, and their monthly mortgage payment is \$2,236. She states that she earns \$12.00 per hour as a loan processing assistant and cannot afford the mortgage without her husband’s financial assistance and that their medical insurance is through her husband’s employer. She states that her [REDACTED] is close to her stepfather. [REDACTED] asserts that she will not live in the Philippines as it is not conducive to raise a family and earn a living, where the political situation is in turmoil, and where

terrorism exists. She states that her daughter [REDACTED] is doing well in the United States and has family and friends here and she would not want to separate her children from their grandparents. [REDACTED] states that she would not leave her parents as they need her help.

The record reflects that the applicant's children were born on January 12, 1997 and July 26, 2003. His [REDACTED] was born on April 3, 1992.

The record establishes that the applicant's wife would endure extreme hardship if she remained in the United States without him.

[REDACTED] claims that she would experience financial hardship if she remained in the United States without her husband. The record reflects that [REDACTED] earns \$13.50 per hour as a department assistant 1 with World Savings. It contains insurance and vehicle invoices. It shows that the applicant is the sole owner of the house where his wife and children reside and that the property's note is \$332,000. The Form W-2 Wage and Tax Statement for 2002 indicates that the applicant earned \$105,110.76. The AAO therefore finds that [REDACTED] would experience extreme financial hardship without the support of her husband.

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

The conditions in the Philippines, the country where [REDACTED] and would live if she joins her husband, are a relevant hardship consideration. While political and economic conditions in an alien's homeland are relevant, they do not justify a grant of relief unless other factors such as advanced age or severe illness combine with economic detriment to make deportation extremely hard on the alien or his qualifying relatives. *Matter of Ige*, 20 I&N Dec. 880 (BIA 1994)(citations omitted).

[REDACTED] states that living in the Philippines is not conducive to earning a living. Court decisions have shown that difficulties in securing employment and the hardships that are a consequence of this such as a lower standard of living and health care are insufficient to establish extreme hardship. *See, e.g., Ramirez-Durazo v. INS*, 794 F.2d 491, 498 (9th Cir. 1986) (Even a significant reduction in the standard of living is not by itself a ground for relief); *Carnalla-Munoz v. INS*, 627 F.2d 1004 (9th Cir. 1980) (upholding the BIA's finding that hardship in finding employment in Mexico and in the loss of group medical insurance did not reach "extreme hardship"); *Pelaez v. INS*, 513 F.2d 303 (5th Cir. 1975) (difficulty in obtaining employment and a lower standard of living in the Philippines is not extreme hardship); and *Bueno-Carrillo v. Landon*, 682 F.2d 143, 146 (7th Cir.1982) (claim by respondent that he had neither skills nor education and would be "virtually unemployable in Mexico" found insufficient to establish extreme hardship)("It is only when other factors such as advanced age, illness, family ties, etc., combine with economic detriment that deportation becomes an extreme hardship"). 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).

[REDACTED] states that in the Philippines there is political turmoil and terrorism. Although the submitted country report describes social issues and human rights in the Philippines, it is insufficient to substantiate the claim that political turmoil and terrorism in the Philippines is so widespread that the life of the [REDACTED] family would be in danger as the applicant presented no evidence of specific incidents of threats or violence

directed against him, his wife, or any of his family living in the Philippines. "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*, 92 F.3d 496, 500 (7th Cir. 1996) (citation omitted). 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)).

If she joins her husband overseas, [REDACTED] states that she would have to leave her siblings and her parents, who need her; and the country where she has spent her life. Courts in the United States have held that separation from one's family need not constitute extreme hardship. For instance, 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 *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); in *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), the Third Circuit affirmed the BIA's decision in finding 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." Although [REDACTED] states that her parents need her help, she fails to explain the kind of assistance that she provides to her parents.

[REDACTED] states that her children, who are 15, 10, and 4 years old, have family and friends in the United States and that she would not want to separate them from their grandparents. Although hardship to the applicant's children and stepchild is not a consideration under section 212(i) of the Act, the hardship endured by his wife, as a result of her concern about the well-being of her child, is a relevant consideration.

The AAO finds that court decisions have found extreme hardship in cases where the language capabilities of the children were not sufficient for them to have an adequate transition to daily life in the applicant's country of origin. For example, *In re Kao*, 23 I&N Dec. 45, 50 (BIA 2001), the BIA concluded that the language capabilities of the respondent's 15-year-old daughter were not sufficient for her to have an adequate transition to daily life in Taiwan; she had lived her entire life in the United States and was completely integrated into an American lifestyle; and uprooting her at this stage in her education and her social development to survive in a Chinese-only environment would constitute extreme hardship. In *Ramos v. INS*, 695 F.2d 181, 186 (5th Cir. 1983), the Circuit Court indicated that "imposing on grade school age citizen children, who have lived their entire lives in the United States, the alternatives of . . . separation from both parents or removal to a country of a vastly different culture where they do not speak the language," must be considered in determining whether "extreme hardship" has been shown. In *Prapavat v. INS*, 638 F. 2nd 87, 89 (9th Cir. 1980) the Circuit Court found the BIA abused its discretion in concluding that extreme hardship had not been shown in light of the fact that the aliens' five-year-old citizen daughter, who was attending school, would be uprooted from the country where she lived her entire life and taken to a land whose language and culture were foreign to her. And, the court in *Jara-Navarrete v. INS*, 813 F.2d 1340, 1343 (9th Cir. 1986), stated that in *Ramirez-Durazo v. INS*, 794 F.2d 491 (9th Cir.1986), it upheld "a decision that provided specific findings, such as that the children spoke Spanish, which might mitigate some of the hardship of being deported to a Spanish-speaking country."

The record here establishes that the applicant's wife has U.S. citizen children who are of school age. The AAO notes that because English is one of the two official languages in the Philippines, the transition of having the applicant's children and stepdaughter live and attend school in the Philippines would be mitigated. No evidence has been submitted to show that having the children live in the Philippines would constitute extreme hardship as found in *In re. Kao & Lin, Ramos, and Prapavat*.

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.

The applicant established extreme hardship to his wife in the event that she remained in the United States without him. However, 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 in the event that the applicant's wife joined him in the Philippines. 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.