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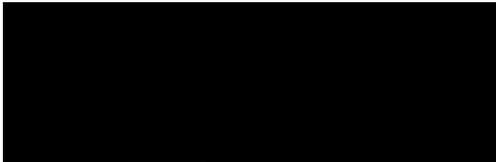
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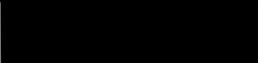
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FILE:



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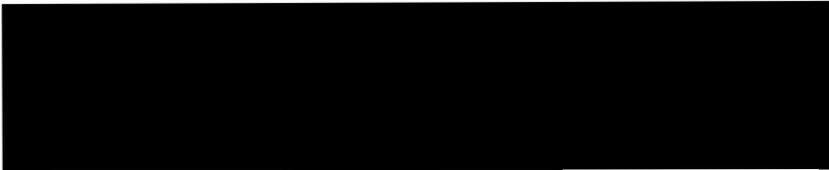
Applicant:



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 Director of the California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Turkey who was 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 seeking admission into the United States by fraud or willful misrepresentation. The applicant is married to a naturalized citizen. The applicant sought a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), which the Director denied, finding that the applicant failed to establish extreme hardship would be imposed on a qualifying relative. *Decision of the Director*, dated August 4, 2006. The applicant filed a timely appeal.

The AAO will first address the finding of inadmissibility.

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 December 15, 1996 the applicant entered the United States at JFK International Airport using a valid Turkish passport and U.S. visitor visa, and leaving the country on March 1, 1997. It shows that on May 30, 1997 the applicant used a Belgian passport in her name and date of birth to enter the United States at the same airport. It shows that the applicant states that she paid \$8,000 and provided her original birth certificate to an accounting and notarial services office in Istanbul, Turkey, for the Belgian passport.

Although the applicant claims that she did not know at the time of entry on May 30, 1997 that she had fraudulently obtained the Belgian passport, it is noted that the applicant failed to list May 30, 1997 as her most recent date of entry into the United States on the Form I-485, Application to Register Permanent Resident or Adjust Status, and the Form I-130 Petition for Alien Relative. Instead, the applicant listed December 15, 1996 as her most recent entry date into the United States, the date on which she entered the United States using a valid Turkish passport and U.S. visitor's visa. In her statement, the applicant admits that she obtained the Belgian passport after being denied a second legitimate U.S. visa. The omission of her second, most recent date of entry, using the fraudulent Belgian passport has not been explained and tends to diminish her claim that she did not know it was a fraudulent passport.

Based on the documentation in the record, the AAO finds the applicant is inadmissible under section 212(a)(6)(C) of the Act for gaining admission into the United States using a fraudulently obtained Belgian passport.

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 is not a consideration under the statute and will be considered only to the extent that it results in hardship to a qualifying relative, who in this case is 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).

"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 husband must be established in the event that he joins the applicant, and in the alternative, that he 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.

On appeal, counsel states that the director discounted the applicant's belief that the Belgian passport was authentic and valid and that the applicant did not knowingly misrepresent information upon entry into the United States. Counsel refers to a psychological evaluation of the applicant's husband to show experience extreme hardship to him if the waiver were denied.

The record contains psychological reports, affidavits, invoices, income tax records, a lease agreement showing monthly rent of \$1,100, employment letters, birth certificates, a marriage certificate, a photograph, and other documents.

The psychological report by [REDACTED] Ph.D., dated May 10, 2006 conveys that the applicant's husband, who is the seventh of seven children, graduated from college in Turkey as a biologist. He states that the applicant's husband conveys that he works 12 hours a day, 7 days a week, as a gas station attendant, and would not be able to care for his two daughters if his wife were to leave the country and that his daughters would have to live in Turkey with their mother. [REDACTED] states that the applicant's husband is taking medication for gastritis, which the treating physician believes is caused by stress. [REDACTED] diagnosed the applicant's husband with having Adjustment Disorder with Mixed Anxiety and Depressed Mood – DSM-IV (309.28) (Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, the American Psychiatric Association.). [REDACTED] states that based on research by [REDACTED], M.D., the applicant's children would develop separation anxiety disorder if they lose their father.

The report by [REDACTED], which is dated August 14, 2006, states that the applicant's husband is extremely apprehensive and depressed about the possibility that his wife and two daughters will have to leave the United States and live in Turkey. [REDACTED] states that the applicant's husband indicates that his stomach pains and sleep disturbance is worse, that he lost weight, and is having a difficult time concentrating at work. [REDACTED] states that if the depressive symptomatology remains at this level, in the future, the diagnostic assessment would evolve into a Major Depressive Disorder, and the applicant's husband may not be able to work in the future because of depression and gastritis. [REDACTED] states that since his initial interview, the depressive symptomatology of the applicant's husband has become more severe.

The affidavit by the applicant sworn on August 24, 2006 describes how she obtained the Belgium passport.

The affidavit by the applicant's husband sworn on the same date is similar in content to his wife's. In addition, he states that he has no job prospects in Turkey, so he would have to remain in the United States to work and support his family. He states that his daughters would not be able to stay with him because he works long hours as a gasoline station attendant. He conveys that life without his family is unimaginable for they are his only purpose in life. He states that he came to the United States in 1989 and that his other family members are all in Turkey and that he has no family in the United States other than his wife and children

The affidavit by the applicant sworn on May 16, 2006 describes how she obtained the Belgium passport and used it to enter the United States.

The affidavit by the applicant sworn on November 21, 2005 describes her entry into the United States using the Belgium passport.

The birth certificates show the U.S. citizen children of the applicant and her husband are 10 and 9 years old.

The employment letter, dated June 23, 2004 and signed by the applicant's husband as the president of [REDACTED], indicates that the applicant is employed as a full-time cashier.

The employment letter of the same date confirms employment of the applicant's husband with [REDACTED] Inc. as owner/president on a full-time basis with a salary of \$31,200.

The undated letter by [REDACTED] confirms employment of the applicant's husband on a full-time basis, earning \$54,600 annually.

In rendering this decision, the AAO has carefully considered all of the evidence in the record.

The AAO finds that the record fails to establish that the applicant's husband would experience extreme hardship if he were to join her to live in Turkey.

The conditions in Turkey, the country where the applicant's husband would join his wife, 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).

The AAO finds that no supporting documentation has been provided to support the claim that the applicant's husband would not be able to find employment in Turkey. Simply going on record without supporting documentary evidence is not sufficient for the purpose 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)).

No hardship claim has been made that the applicant or her husband or child has a severe illness.

The record fails to show that the applicant's husband would experience extreme hardship if he were to remain in the United States without her.

The record contains psychological reports prepared by [REDACTED]. Although the input of a mental health professional is respected and valuable, the AAO notes that the submitted reports are each based on a single interview between the applicant's spouse and the psychologist. The record fails to reflect an ongoing relationship between a mental health professional and the applicant's spouse or any history of treatment for the Adjustment Disorder with Mixed Anxiety and Depressed Mood disorder experienced by the applicant's spouse. In addition, the conclusions reached in the reports, being based on a single interview, do not reflect the insight and elaboration commensurate with an established relationship with a psychologist, thereby rendering the [REDACTED]'s findings speculative and diminishing the value of the reports in determining extreme hardship.

With regard to family separation, 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).

However, 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 *Shooshtary v. INS*, 39 F.3d 1049 (9th Cir. 1994), the court upheld the finding of no extreme hardship if Shooshtary'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.

The record conveys that the applicant's husband is very concerned about separation from his wife and his daughters. 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 husband, if he 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 required by the Act. The record before the AAO is insufficient to show that the emotional hardship, which will be experienced by the applicant's husband, is unusual or beyond that which is normally to be expected upon removal. *See Hassan, Shooshtary, Perez, and Sullivan, supra.*

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).

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.