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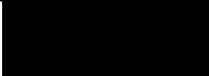
U.S. Citizenship
and Immigration
Services

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FILE:



Office: MEXICO CITY (PANAMA)

Date: APR 29 2008

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:

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Mexico City, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Colombia 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 to procure a visa, other documentation, or admission into the United States or other benefit provided under the Act by fraud or willful misrepresentation. 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 and reside with his U.S. citizen mother.

The district director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the District Director*, dated June 20, 2007.

On appeal, the applicant's mother states that she will experience physical and emotional hardship if the applicant is prohibited from entering the United States. *Statement from Applicant's Mother on Form I-290B*, dated July 6, 2007.

The record contains statements from the applicant and the applicant's mother; a copy of the applicant's birth certificate; a copy of the applicant's mother's naturalization certificate; copies of medical records for the applicant's mother, and; documentation in connection with the applicant's visa application and waiver interview abroad. 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.

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.

The record reflects that on August 15, 2002, the applicant attempted to procure an F-1 student visa at the U.S. Embassy in Bogota, Colombia using fraudulent documents. Thus, he was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Act for seeking to procure a visa, other documentation, or admission into the United States or other benefit provided under the Act by fraud or willful misrepresentation. The applicant claimed that he paid a man for the documents under the belief that they were valid. However, the

applicant has not submitted sufficient documentation to show by a preponderance of the evidence that his fraud or misrepresentation was not willful. Section 212(a)(6)(C)(i) of the Act.

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 the alien himself experiences is not a direct concern in section 212(i) waiver proceedings; the only relevant hardship in the present case is hardship suffered by the applicant's 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).

Matter of Cervantes-Gonzalez, 22 I&N Dec. 560, 565-566 (BIA 1999) provides a list of factors the Bureau of Immigration Appeals deems relevant in determining whether an alien has established extreme hardship pursuant to section 212(i) of the Act. These 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.

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. *Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996). (Citations omitted).

On appeal, the applicant's mother states that she will experience physical and emotional hardship if the applicant is prohibited from entering the United States. *Statement from Applicant's Mother on Form I-290B*, dated July 6, 2007. She provides that, other than her husband, she has no family in the United States, and thus she would benefit from the applicant's presence. *Id.* at 2. The applicant's mother explained that she has poor health and back problems including a herniated disc, and that her husband does not have time to assist her. *Statement from Applicant's Mother*, dated July 6, 2007. She indicated that the applicant could help her with chores and daily tasks. *Statement from Applicant's Mother*, dated July 1, 2006. She asserted that she requires the applicant's presence in order to fully recover. *Id.* at 1.

The applicant's mother further expressed that she wishes for the applicant to reside in the United States so that he may work and provide for his two daughters. *Id.* at 2.

Upon review, the applicant has not established that his mother will experience extreme hardship if he is prohibited from entering the United States. The applicant's mother explains that she has health problems and she requires the applicant in the United States to assist her. However, the applicant has not provided sufficient documentation to show that his mother requires his assistance.

The medical records for the applicant's mother reflect that she has had extensive examinations of her spine. While some degenerative conditions are noted, the record contains no detailed analysis from a medical professional regarding the impact the applicant's mother's health has on her ability to work or perform daily

tasks. The record contains no evidence to show whether the applicant's mother does in fact work, or whether she receives public benefits due to disability.

The applicant submitted a brief, handwritten note on a physician's notepad that states that his mother "has degenerative disease of the spine with severe pain on medications," and that she "[n]eeds assistance from her son to help her with activities of daily living because of pain and medications." *Statement on Physician's Notepad*, dated August 7, 2007. However, this note does not indicate why the applicant's mother specifically requires the applicant's assistance. Nor does it specify with what tasks the applicant's mother needs assistance. The applicant has not shown that his mother is unable to meet her needs alone, or that any need she has cannot be met without the applicant.

The applicant has not submitted any documentation of his mother's regular expenses or financial means, thus the AAO is unable to conclude that she lacks economic resources to hire in-home assistance should she need it.

The applicant's mother expressed that she will experience emotional hardship if she continues to be separated from the applicant. The AAO recognizes that the applicant's mother will endure hardship as a result of separation from the applicant should she remain in the United States. However, the applicant has not shown that her situation differs from that which is common to individuals separated as a result of deportation or exclusion. The applicant has not shown that his mother's emotional hardship would rise to the level of extreme hardship based on the record. U.S. 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, *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), 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. *Hassan v. INS*, *supra*, 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.

It is noted that the applicant's mother may relocate abroad to join the applicant should she choose. The applicant has not provided any explanation or documentation to show that his mother would experience extreme hardship should she join him abroad.

Based on the foregoing, the applicant has failed to submit sufficient documentation to show by a preponderance of the evidence that the instances of hardship that will be experienced by his mother, should he be prohibited from entering the United States, will rise to the level of extreme hardship. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether he merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(6)(C) 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.