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U.S. Citizenship  
and Immigration  
Services

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H<sub>2</sub>

FILE:

Office: NEW DELHI, INDIA

Date:

DEC 01 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:

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The Application for Waiver of Grounds of Inadmissibility (Form I-601) was denied by the Officer in Charge, New Delhi, India. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and the Form I-601 will be denied.

The applicant is a native and citizen of India 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). The applicant seeks a waiver of his ground of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The officer in charge determined that the applicant had failed to establish a qualifying family member would suffer extreme hardship if the applicant were refused admission into the United States. The Form I-601 was denied accordingly.

On appeal the applicant indicates, through counsel, that the officer in charge failed to properly review and weigh the evidence of hardship submitted in his case, and he asserts that evidence establishes that his wife will suffer extreme hardship if he is denied admission into the United States.

Section 212(a)(6)(C)(i) of the Act provides, in pertinent part, that:

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 evidence in the record reflects that on November 20, 2000 the applicant submitted fraudulent documents to U.S. consular officials in India, in an attempt to procure an H1B nonimmigrant visa into the United States. The applicant is therefore inadmissible under section 212(a)(6)(C)(i) of the Act.

Section 212(i) of the Act provides in pertinent part that:

(1) The Attorney General [now Secretary, Department 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 applicant's wife is a naturalized U.S. citizen. Accordingly, she is a qualifying family member for section 212(i) of the Act, waiver of inadmissibility purposes. U.S. citizen and lawful permanent resident children are not included as qualifying relatives for section 212(i) of the Act purposes. Hardship to the applicant's child may therefore be considered only to the extent that it contributes directly to hardship suffered by the applicant's wife.

In *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565-66 (BIA 1999), the Board of Immigration Appeals (Board) provided a list of factors it deemed relevant to determining whether an alien had established extreme hardship. 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 Board held in *Matter of Ige*, 20 I&N Dec. 880, 882, (BIA 1994), that, "relevant [hardship] factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists."

The term, "extreme hardship" has been defined as hardship that is unusual or beyond that which would normally be expected upon deportation. *Perez v. INS*, 96 F.3d 390 (9<sup>th</sup> Cir. 1996.) Legal decisions have repeatedly held that the common results of deportation (removal) or exclusion (inadmissibility) are insufficient to prove extreme hardship. *Id.* See also, *Hassan v. INS*, 927 F.2d 465, 468 (9<sup>th</sup> Cir. 1991.)

The record contains the following evidence relating to the applicant's extreme hardship claim:

A marriage certificate reflecting that the applicant married his wife [REDACTED] in Hyderabad, India on September 25, 2001

A Certificate of Naturalization reflecting that [REDACTED] became a naturalized U.S. citizen on January 20, 2005.

An April 19, 2006 letter signed by [REDACTED] stating that her husband resides in India and that she is raising their son (born June 8, 2001) alone in the United States. [REDACTED] indicates that her husband and son barely know each other and that the lack of a strong bond between them has caused heartache to all of them. She indicates further that children often ask her son where his father is, causing her son to experience additional pain.

A July 2006 letter from [REDACTED] stating that she is a single parent with a six-year-old son, and that she has been without her husband for six years. She states that she must also take care of her sick, elderly mother who cannot take care of herself. She states further that she is not financially stable. [REDACTED] states that she is headed for a major breakdown, and she indicates that she wants her husband to be with his family and to help support his family. In addition, [REDACTED] states that she is unable to afford a vacation from work so that she and her son can visit the applicant in India.

A June 15, 2006 Psychological Consultation by [REDACTED], psychologist at the Center for Psychological Services, L.L.C., reflecting that [REDACTED] and her son were referred to him for a psychological consultation by [REDACTED]'s attorney. The Psychological Consultation contains a summary of how [REDACTED] met the applicant, how she came to the United States, the strength of her marriage, and the emotional effects of her separation from the applicant, as reported by [REDACTED] during an interview conducted on June 12, 2006. Based on the interview, [REDACTED] states that [REDACTED] and her son appeared to be demonstrating significant emotional reactions to their separation from the applicant. [REDACTED] additionally states that it appears that [REDACTED] and her son are experiencing significant emotional and financial hardship as a result of their separation from the applicant. [REDACTED] lists the following clinical impressions: Adjustment Disorder with Anxiety ([REDACTED]); Anxiety

affecting Migraine Headaches (██████████); and Phase of Life Problem (██████████ and her son.) He recommends that ██████████ make an appointment with a physician regarding her migraine headaches, and that she make an appointment with a psychologist to help her develop better coping mechanisms to counter the severe anxiety and depression she is experiencing at this time.

The AAO finds, upon review of the totality of the evidence, that the applicant has failed to establish that his wife will suffer hardship beyond that commonly associated with removal of a family member, if the applicant is denied admission into the United States.

The evidence submitted on appeal reflects that ██████████ had one psychological consultation with Dr. ██████████ in June 2006. General clinical impressions of Adjustment Disorder with Anxiety, Anxiety affecting Migraine Headaches, and Phase of Life problem were made during the psychological consultation, and recommendations were made for follow-up appointments with a physician and psychologist. ██████████ did not provide an actual diagnosis of ██████████ or her son's condition, and the record contains no evidence to indicate that ██████████ made follow-up appointments with a physician or psychologist, or that she has received, or is receiving treatment for separation related migraine headaches or anxiety. As previously noted, the applicant's son is not a qualifying relative for section 212(i) of the Act waiver of inadmissibility purposes. Moreover, the evidence in the record fails to demonstrate that the effect of ██████████ son's separation from his father has caused ██████████ to experience emotional or physical hardship beyond that normally experienced upon removal of a family member. The record also contains no evidence or detailed information to support the claim that ██████████ has, or will suffer extreme financial hardship if the applicant is denied admission into the United States. It is additionally noted 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).

The applicant has also failed to establish that ██████████ would suffer extreme hardship if she moved with her family to India. The record reflects that ██████████ is familiar with the language, culture and environment in India, as she is originally from India, she lived there until 1999, and she met and married her husband there. The record lacks corroborative evidence to establish that ██████████'s parents live in the United States or that her mother relies on her assistance. Moreover, the Board held in *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), that emotional hardship caused by severing family and community ties is a common result of deportation. It is additionally noted that hardships involving a lower standard of living, difficulties of readjustment to a different culture and environment and reduced job opportunities, have been found not to rise to the level of extreme hardship. *Ramirez-Durazo v. INS*, 794 F.2d 491, 498 (9<sup>th</sup> Cir. 1986.)

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is on the applicant to establish eligibility for the benefit sought. In the present matter, the applicant has failed to establish that his wife will suffer hardship beyond that normally experienced upon the removal of a family member, if he is denied admission into the United States. The appeal will therefore be dismissed and the Form I-601 will be denied.

**ORDER:** The appeal is dismissed. The application is denied.