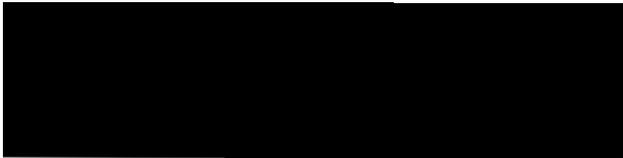


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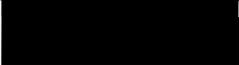
U.S. Citizenship  
and Immigration  
Services

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htz

FILE:



Office: LOS ANGELES, CA

Date:

**FEB 06 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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, Los Angeles, California, 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 District Director denied, finding the applicant failed to establish extreme hardship to a qualifying relative. *Decision of the District Director*, dated May 6, 2005.

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 applicant's affidavit reflects that she gained admission into the United States by presenting to an immigration officer a fraudulent Philippine passport in the name [REDACTED]. The record contains the I-94 Departure Record and the fraudulent Philippine passport in the name [REDACTED]. The record therefore supports the finding that the applicant willfully misrepresented a material fact, her true identity, so as to gain admission into the United States. She 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 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 her naturalized citizen husband. 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.

The record contains income tax records, pay statements, a marriage certificate, a psychological evaluation, medical records, declarations, an employment letter, birth certificates, and other documents.

On appeal, counsel states that [REDACTED] the applicant’s husband, is psychologically dependent upon his wife. Counsel states that the applicant and her husband financially support [REDACTED] elderly parents, who have health problems. Counsel states that the applicant’s husband has liver problems as a result of alcoholism and would have extreme difficulty supporting himself and his parents without the applicant’s help.

[REDACTED]’s declaration dated July 25, 2003 states that he and his wife reside in Los Angeles, California. The declaration indicates that [REDACTED] and his wife have a close and loving relationship and look forward to purchasing a house and having children.

[REDACTED]’s declaration of the same date is substantially similar in content to her husband’s declaration. In addition, she states that she came to the United States for employment and to financially support her parents.

The psychological evaluation by [REDACTED] states that [REDACTED] is the only son supporting his elderly parents who live in the United States, although he has two siblings residing in the United States and eight siblings in the Philippines. She conveys that [REDACTED] had hernia surgery last year and still has pain from the surgery and has possible circulatory or nerve problems that impact the type of work he can perform. She states that [REDACTED] has liver problems. [REDACTED]z states that Mr. [REDACTED] medical problems may render him unable to sufficiently cover medical costs and obtain better jobs.

She states that [REDACTED] candidly shared that he was an alcoholic and his wife helped him to not drink. [REDACTED] states that [REDACTED] obtained a "Severe Range" of depression in the Beck Depression Inventory-Second Edition, and a "Severe Range" of anxiety in the Beck Anxiety Inventory. She states that [REDACTED] reported problems of an internalizing nature in the Adult Self-Report, on the "Attention Deficit/Hyperactivity subscales his score for inattention was high enough to warrant concern," and his score on the Anxiety Problems scale was in the borderline clinical range. [REDACTED] indicates that [REDACTED] is already experiencing "severe levels" of depression and anxiety and that if his wife returns to the Philippines this would create great levels of stress and anxiety on him. She states that Mr. [REDACTED] would not be able to support his parents and pay for his medical care if he lived in the Philippines. [REDACTED] states that terrorist threats to Americans are high in the Philippines, as shown in the Philippines Consular Information Sheet, dated July 26, 2004.

The letter by [REDACTED] D., conveys that [REDACTED] mother is under medical care for essential hypertension, hyperlipidemia, osteoporosis, and arthralgia.

The medical records and letter by [REDACTED], dated January 7, 2005, concerning Mr. [REDACTED]'s father, convey that his father has severe multivessel coronary artery disease, chronic atrial fibrillation, severe chronic obstructive pulmonary disease, a history of pulmonary embolism, and hypertension.

The Statement of Hardship dated May 27, 2004 by [REDACTED] states that his wife is a nursing graduate and is studying to take the board examination to become registered as a nurse in California.

The May 11, 2004 letter by [REDACTED] Acting Personnel Director, Department of General Services, states that since August 28, 2000, [REDACTED] has been employed full-time with the City of Los Angeles, earning an hourly salary of \$18.24, as a City Craft Assistant- Hiring Hall in the Construction Forces Division.

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

[REDACTED] conveys that he has liver problems (which counsel indicates is associated with [REDACTED] alcoholism) and possible circulatory or nerve problems. However, the record contains no medical records or **any other documentation of his medical problems**. 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)).

With regard to the psychological evaluation of [REDACTED], although the input of any mental health professional is respected and valuable, the AAO notes that the submitted evaluation is 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 disorders experienced by the applicant's spouse. Moreover, the conclusions reached in the evaluation, being based on a single interview, do not reflect the insight and elaboration commensurate with an established relationship with a psychologist.

With 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).

The record conveys that [REDACTED] is concerned about separation from his wife. However, courts in the United States have held that separation from one’s family need not constitute extreme hardship. In *Hassan v. INS*, 927 F.2d 465, 468 (9<sup>th</sup> 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 (9<sup>th</sup> 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 (9<sup>th</sup> 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 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 [REDACTED] 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 defined by the Act. The record before the AAO is insufficient to show that the emotional hardship, which certainly will be endured by the applicant’s husband, is unusual or beyond that which is normally to be expected upon removal. See *Hassan*, *Shooshtary*, and *Sullivan*, *supra*.

The present record is not sufficient to establish that the applicant’s husband would endure extreme hardship if he were to join her in the Philippines.

The conditions in the Philippines, the country where [REDACTED] would live if he joins 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).

[REDACTED] states that he would not be able to financially assist his parents if he lived in the Philippines. The AAO finds that the record contains no documentation substantiating that [REDACTED] provides financial assistance to his parents. 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)).

The psychological evaluation conveys that \_\_\_\_\_ will not be able to afford medical care for his health problems in the Philippines. As previously stated, the record contains no documentation of \_\_\_\_\_ health problems. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici, supra*.

\_\_\_\_\_ states that as shown in the Philippines Consular Information Sheet terrorist threats to Americans are high in the Philippines. The information sheet referred to was not submitted, but the quotations cited by \_\_\_\_\_ indicate that there are certain areas that U.S. citizens should avoid. This information is insufficient to substantiate the claim that terrorist threats, crime, and violence in the Philippines is so widespread that the applicant's life would be in danger. "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).

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).

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.