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U.S. Citizenship
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Services

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[Redacted]

FILE:

[Redacted]

Office: ATLANTA, GEORGIA

Date:

4/11/07

IN RE:

Applicant:

[Redacted]

APPLICATION:

Application for Waiver of Grounds of Inadmissibility under § 212(i) of the
Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

[Redacted]

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, Director
Administrative Appeals Office

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

The applicant is a native and citizen of Great Britain who was found to be inadmissible to the United States under § 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having attempted to procure a benefit under the Act by fraud or willful misrepresentation. The applicant is married to a U.S. citizen and is the beneficiary of an approved petition for alien relative. The applicant seeks a waiver of inadmissibility pursuant to § 212(i) of the Act, 8 U.S.C. § 1182(i).

The district director found that the applicant failed to establish that her U.S. citizen husband would experience extreme hardship if she is removed. She denied the waiver application accordingly. On appeal, counsel asserts that the evidence shows extreme hardship to the applicant's spouse. Counsel also states that the applicant has taken responsibility for her prior misrepresentation. Counsel submits statements by the applicant and her husband, medical documentation relating to the applicant's obstetrical difficulties, and information regarding the applicant's role as an owner of a computer training and consulting firm. The AAO concurs with the district director's 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.

On July 24, 1994, the applicant submitted an application for asylum containing false information in order to obtain a benefit under the Act. She is therefore inadmissible pursuant to the above provision of the Act.

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.

Section 212(i) of the Act provides that a waiver of the bar to admission resulting from § 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member. In the present case, in order for the applicant to qualify for a § 212(i) waiver of inadmissibility, she must demonstrate extreme hardship to her U.S. citizen 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).

In his statement on appeal, the applicant's husband, who is a physician, writes that if he chooses to leave the United States in order to remain with the applicant, he will have to give up his medical practice, causing him emotional and financial hardship. He also writes that the applicant has suffered several miscarriages, a factor borne out by the submitted medical documentation, and he fears that the applicant will not find adequate fertility assistance elsewhere. The consequent inability to start a family would cause the applicant's husband emotional hardship.

In a letter dated May 23, 2002, [REDACTED] wrote that the applicant was pregnant with twins. [REDACTED] advised that the applicant avoid long distance travel. It is not known whether the applicant gave birth, but it can be assumed that she is no longer pregnant. There is no medical documentation showing that sufficient medical care is unavailable in Great Britain.

The documentation on the record does not establish that the applicant's spouse would be unable to find suitable employment if he decides to relocate to Great Britain. He is not required to leave the United States, in any case. The record also does not establish that if the applicant's husband chooses to remain in the United States, the applicant's departure would cause her husband financial or emotional stress beyond that which is, unfortunately, normal in similar cases.

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. Moreover, the U.S. Supreme Court held in *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship.

A review of the documentation in the record, when considered in its totality, reflects that the applicant has failed to show that her U.S. citizen spouse would suffer extreme hardship if she were removed from the United States. 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 § 212(i) of the Act, the burden of proving eligibility remains entirely with the applicant. 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.