U.S. Department of Homeland Security
20 Massachusetts Avenue NW, Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

H2

FILE: [redacted] Office: MANILA PHILIPPINES Date: SEP 28 2015

IN RE: [redacted]

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:

[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 Acting Immigration Attaché, Manila, Philippines, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant 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 attempting to procure a visa for the United States by fraud or willful misrepresentation. The applicant is the son of a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States with his mother who petitioned for him in this case.

The acting immigration attaché 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 Excludability (Form I-601) accordingly. *Decision of the Acting Immigration Attaché*, dated February 27, 2004.

On appeal, counsel asserts that a careful review of the facts and supporting documents clearly and convincingly demonstrate extreme hardship on the qualifying relative. *Brief in Support of Appeal*, dated March 22, 2004.

In support of these assertions, counsel submits the aforementioned brief, medical prescriptions for the applicant's mother, a statement from the applicant's mother, a psychological evaluation of the applicant's mother and information on the Philippine's economy. The entire record was reviewed and considered in arriving at a decision on the appeal.

The record reflects that the applicant provided false documents to the United States Government for three separate visa applications. As a result of these prior misrepresentations, the applicant is inadmissible to the United States.

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.

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 a U.S. citizen or lawfully resident spouse or parent of the applicant. Hardship the alien himself experiences upon removal is irrelevant to section 212(i) waiver proceedings unless it causes hardship to the applicant's mother as the only relevant hardship in the present case is that 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 (BIA 1999) provides a list of factors the Board 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 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 record indicates that the applicant's mother has six children and eleven grandchildren in the United States, although their legal status is not mentioned. *Psychologist's Report*, at 2, dated March 17, 2004. The record does not mention whether the applicant's mother has any family ties in the Philippines besides the applicant or any ties to the Philippines in general, though it is noted that she left the Philippines in 1993 and apparently lived most of her life there.

In regard to country conditions, counsel has submitted articles on the Philippines which describe the budget deficit, low value of local currency and terrorism. With respect to financial issues, the applicant's mother states that the applicant can give her a better life in the United States as he has a degree in civil engineering. *Statement of Applicant's Mother*, at 2, dated March 14, 2004. There is no evidence of the applicant's mother's current financial situation in the record or that the applicant would be able to obtain employment in his field.

The record indicates that the applicant's mother suffers from hypertension and insomnia. *See Pharmacy Reports*, various dates. There is no evidence that these problems are related to separation from the applicant. The psychological evaluation states that the applicant's mother has high levels of depression and that separation from the applicant would result in very damaging psychological effects. *Psychologist's Letter*, at 6, dated March 17, 2004. However, this is a one-time letter and there is no mention of a course of treatment or an ongoing relationship with a healthcare professional. The record does not mention if there is a lack of suitable medical care in the Philippines.

The record indicates that the applicant's mother may face difficulties if she resides in the Philippines. However, based on the evidence presented, extreme hardship has not been shown in the event that the applicant's mother relocates to the Philippines. In addition, the record does not show that the applicant's mother will suffer extreme hardship in the event that she remains in the United States and has access to health care.

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 AAO notes that 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. The AAO recognizes that the applicant's mother will endure hardship as a result of separation from the applicant and is sympathetic to her situation. However, her situation, based on the record, is typical to individuals separated as a result of deportation or exclusion and does not rise to the level of extreme hardship.

The AAO notes that a review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's mother caused by the applicant's inadmissibility to the United States. 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(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. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.