U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: LOS ANGELES, CA Date: JUL 19 2006

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.

Ellen C. Johnson

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant is a native and citizen of Philippines who was found to be inadmissible to the United States (U.S.) 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 having procured admission into the United States by fraud or willful misrepresentation in 1987. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The district director concluded that the affidavit of the applicant's spouse and evidence in the record did not support a finding that the applicant's spouse would suffer extreme hardship other than the common results of deportation. The application was denied accordingly. *District Director's Decision*, dated October 27, 2004.

On appeal, counsel states that the Service did not consider all the circumstances concerning the extreme hardship suffered by the applicant's spouse. *Counsel's Brief*, dated November 22, 2004.

The applicant's record includes but is not limited to the following documents: an affidavit from the applicant's spouse; a letter from the applicant's step-son; a letter from the applicant's step-daughter; photographs of the applicant and his family; copies of mortgage statements showing a monthly payment of $217.64; and a psychological report for the applicant's spouse by [redacted] a licensed clinical psychologist.

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 indicates that in 1987 the applicant presented a U.S. passport not belonging to him to gain entry into the United States. Section 212(i) of the Act provides that a waiver of the bar to admission resulting from section 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. Hardship the alien himself experiences due to separation is irrelevant to section 212(i) waiver proceedings unless it causes hardship to the applicant's 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).

The AAO notes that extreme hardship to the applicant's spouse must be established in the event that she resides in the Philippines or in the event that she resides in the United States, as she is not required to reside outside of the United States based on the denial of the applicant's waiver request. The AAO will consider the relevant factors in adjudication of this case.

The first part of the analysis requires the applicant to establish extreme hardship to his spouse in the event that she resides in the Philippines. In his brief, counsel asserts that the applicant's spouse has been a lawful permanent resident and then a U.S. citizen since 1981. Her elderly mother and two children reside in the United States and she has been employed at the same company for thirteen years. The applicant's spouse submitted an employer letter showing she has been employed at [redacted] since January 5, 1991. The applicant submitted no evidence to establish country conditions in the Philippines and his spouse's ability to find employment, housing and other necessities for her relocation. Therefore, the record does not reflect that relocation will result in extreme hardship to the applicant's spouse.

The second part of the analysis requires the applicant to establish extreme hardship in the event that his spouse remains in the United States. The applicant's spouse states that she will suffer emotionally and financially if her husband is removed from the United States. She states that the applicant relies on her for medical care for his hypertension and diabetes. She asserts that her inability to care for him will cause her extreme hardship. Counsel also submitted a psychological report for the applicant's spouse by Jerome [redacted] a licensed clinical psychologist. Mr [redacted] states that it would be reasonable to assume that the worst case scenario would precipitate a psychological regression to the applicant's spouse and her family that would be unnecessary and devastating. The AAO notes that this report lacks significant probative value as it does not indicate the history of the doctor-patient relationship, the severity of the applicant's problems and whether she is receiving any treatment and the effects of the treatment.

The applicant's spouse also states that the applicant helps her financially and pays all of their expenses. The AAO notes that the only evidence submitted regarding expenses was a mortgage statement. In addition, the applicant's spouse submits no evidence to show that her adult children would not be able to help her financially if the applicant is removed from the United States. The AAO recognizes that the applicant's spouse will endure hardship as a result of separation from the applicant. However, her situation, if she remains in the United States, is typical to individuals separated as a result of deportation or exclusion and does not rise to the level of extreme hardship.

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.

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's spouse 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(a)(9)(B) 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.