U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

[redacted]

H2

FILE: [redacted] Office: NEW DEHLI, INDIA Date: JUL 25 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:

SELF-REPRESENTED

PUBLIC COPY

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 Acting Officer in Charge, New Dehli, India and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Bangladesh 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 on January 26, 2000. The applicant is married to a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The acting officer in charge concluded that the applicant had not established that her inadmissibility was causing extreme hardship to her U.S. citizen spouse. The application was denied accordingly. *Decision of the Acting Officer in Charge*, dated October 13, 2004.

On appeal, the applicant asserts that her husband is suffering extreme hardship as a result of her inadmissibility. *Statement from the Applicant's Spouse*, dated November 2, 2005.

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 on January 26, 2000, while applying for a nonimmigrant visa, the applicant stated that she had no relatives living in the United States when her U.S. citizen husband was residing in 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 herself 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 he resides in Bangladesh or in the event that he resides in the United States, as he 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 her spouse in the event that he resides in Bangladesh. The applicant states that her spouse suffers from acute joint pain and arthritis with high uric acid. He also suffers from high blood pressure. The applicant submitted a medical record establishing that when the applicant's spouse visited Bangladesh he became ill and had to be treated at a clinic for hypertension, joint pain and gout. However, this record does not state that the applicant's spouse should restrict his travel to Bangladesh or that living in Bangladesh would be a hazard to his health. The applicant did not make any other assertions in regards to this part of the analysis. Therefore, the current 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 her spouse remains in the United States. The applicant states that her spouse needs her in the United States so she can take care of him. She states that her spouse was previously being taken care of by his brother, but this brother died on November 23, 2003 and now her spouse has no one to help with his everyday needs. The AAO notes that the applicant did not submit any documents to establish the extent of her spouse's needs and/or health condition from his doctor in the United States. The only medical record submitted was a record from Bangladesh from when he had an incident of illness. There is no documentation showing that the applicant's spouse receives ongoing treatment and requires the care of the applicant to meet his everyday needs. In addition, the applicant states that her spouse is suffering emotionally and financially from their separation. She states that her living in Bangladesh causes her spouse a lot of stress because Bangladesh is a dangerous place for a woman to live alone. She also states that her living in Bangladesh is having a financial impact because her spouse has to support her in Bangladesh. The AAO notes that the applicant submitted no documentation to show the extent of the emotional and/or financial impact this separation is having on her spouse. The AAO recognizes that the applicant's spouse is enduring hardship as a result of separation from the applicant. However, the current record does not establish that this hardship rises to the level of extreme.

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 she 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.