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U.S. Citizenship
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Services

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: OCT 12 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant is a native and citizen of Guyana 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 procuring admission into the United States by fraud or willful misrepresentation. The applicant's father is a U.S. citizen.[1] The applicant 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 family.

The director 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 Inadmissibility (Form I-601). *Decision of the Director,* undated.

On appeal, counsel asserts that the applicant's waiver was erroneously denied due to a lack of opportunity to submit additional supporting evidence. *Form I-290B*, dated February 24, 2006.

The record includes, but is not limited to, a statement from the applicant's father, a statement from the applicant's child's teacher, various letters of support and information on conditions in Guyana. The entire record was reviewed and considered in arriving at a decision on the appeal.

The record reflects that the applicant entered the United States on December 22, 1992 with another person's Canadian passport. As a result of this prior misrepresentation, 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.

[1] The record is not clear as to whether the applicant's mother is a U.S. citizen or lawful permanent resident and the applicant's Form I-601 does not list her as a qualifying relative. The record also indicates that the applicant is married, but her status is unknown.

The waiver is dependent first upon a showing that the bar imposes an extreme hardship to the applicant's U.S. citizen father. Hardship to the applicant's daughter is only relevant to the extent it causes hardship to the applicant's father. 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 family ties to 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 AAO notes that extreme hardship to the applicant's father must be established in the event that he resides in Guyana 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 first part of the analysis requires the applicant to establish extreme hardship to his father in the event that he resides in Guyana. The applicant's father's granddaughter is a U.S. citizen. The applicant's sister states that she, her mother and her other brother are U.S. citizens. The record does not reflect the applicant's father's current ties to Guyana. The AAO notes that the applicant's father is originally from Guyana and is therefore, familiar with the language and culture. The record does not reflect the financial impact of departure from this country or significant conditions of health, particularly when tied to an unavailability of suitable medical care in Guyana.

In regard to country conditions, the applicant's father states that Guyana is a dangerous place to live, especially for the Indo-Guyanese, and the crime rate increases every day with numerous killings and kidnappings. *Statement from the Applicant's Father*, dated March 6, 2006. The record includes information detailing racial and safety issues in Guyana. However, there is no evidence that the applicant's father has faced serious problems in the past or that he will face them upon return to Guyana. After a thorough review of the record, the AAO finds that the applicant has not demonstrated extreme hardship to his father in the event that he resides with him in Guyana.

The second part of the analysis requires the applicant to establish extreme hardship in the event that his father remains in the United States. A family friend states that the applicant's father would be affected because his child and daughter-in-law would be in a different continent and family gatherings would be incomplete. *See Letter from* [redacted], dated March 6, 2006. Another friend states that the applicant's father would feel sad and depressed based on separation and these feelings lead to stress and heart problems. *See Letter from* [redacted] dated March 6, 2006. There is no evidence that the applicant's father has any serious medical conditions which would be exacerbated by the applicant's departure. The AAO notes that separation entails inherent emotional stress and financial and logistical problems which are common to those

involved in the situation. A thorough review of the entire record does not reflect that separation will result in extreme hardship to the applicant's father.

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.

The AAO recognizes that the applicant's father will endure hardship as a result of separation from the applicant. However, his situation, if he 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.

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's father 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.