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U.S. Department of Homeland Security
20 Massachusetts Avenue, Rm. A3000
Washington, DC 20529-2090

U.S. Citizenship
and Immigration
Services

[redacted]

H2

FILE: [redacted] Office: LOS ANGELES Date: JAN 12 2009

IN RE: [redacted]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act (INA), 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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Michael Shumway

John F. Grissom, Acting Director
Administrative Appeals Office

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

The record reflects that the applicant is a native and citizen of South Korea. The applicant was found inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (INA, the Act), 8 U.S.C. § 1182(a)(6)(C)(i). The record reflects that the applicant has a U.S. citizen mother, a U.S. legal permanent resident (LPR) wife, and three LPR children. The applicant seeks a waiver of inadmissibility in order to remain in the United States with his mother, wife, and children.

The district director found that the applicant committed fraud by attempting to enter the United States at the Los Angeles Airport Point of Entry by presenting a passport which contained a counterfeit nonimmigrant U.S. visa, and that the applicant is therefore inadmissible. The district director found that the applicant had failed to establish extreme hardship to the applicant's U.S. citizen mother and U.S. LPR wife. The director found that hardship to the applicant or the applicant's children was not, *per se*, a permissible consideration.

On appeal, counsel contended that the circumstances of the instant case justify waiver of inadmissibility.

Section 212(a)(6)(C)(i) of the Act provides:

> In general.—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.

The record shows that, on July 1, 1993 the applicant attempted to enter the United States on his Korean passport, containing what purported to be a U.S. nonimmigrant visa. Close inspection of that purported nonimmigrant visa, however, showed that it was counterfeit. The applicant was interviewed and gave a sworn statement on that same date to an Immigration Officer. A portion of the interview and statement follows:

> Q. Were you ever denied a U.S. visa?
> A. I once applied for a U.S. visa but was told to return because the Consul wanted some more documents.
> Q. What kind of documents did the Consul ask you for?
> A. Income tax return, the deed for my house, a visa application form and four pictures.
> Q. Did you return to the consulate with those documents in person?
> A. I sent another person.
> Q. Who was this person?
> A. I sent a friend, but I don't know who he is.

Q. How did you meet this person?
A. He is my friend, I was presented to him? [Punctuation as per the original.]
Q. How much did you pay for this visa?
A. Nothing.
Q. Who presented you to the friend who got the visa for you?
A. I don't know, I can't say. [Punctuation as per the original.]

With the appeal, counsel submitted a July 25, 2006 statement in which the applicant indicated that he had obtained the visa in question through a travel agency, which took care of the visa application process and returned his passport to him with the visa stamped in it. He further stated that upon being refused admission to the United States he returned to Brazil and confronted the travel agency, which told him that the visa was legitimate and expressed surprise that he was refused entry.

In his July 25, 2006 statement the applicant asserted that he was informed that the visa he presented was issued to someone else. The record contains no support for this assertion. Rather, a July 1, 1993 memorandum in the record states the following about the applicant's visa:

> The [applicant's visa] is identical to a lookout dated 03/93 from the flourescent [sic] lab. Eagle wrong. Lettering too blocked. Date of issuance and date of expiration incorrect. Signature not correct. Sao Paulo and signature plates do not match. Lines on signature plate run the wrong way and the number on the visa is not lined properly. Lettering in classification is wrong.

The immigration officers who signed that memorandum determined, not that the visa had been issued to another person, but that it was counterfeit. The decision of denial stated that the applicant's passport, which he presented to gain entry into the United States, "contained a counterfeit visa," not that the visa the applicant presented was issued to some other person. Further, computer records maintained by the U.S. Department of State do not indicate that the applicant applied for or received a visa during 1993.

The applicant did not explain why he previously stated that he sent a friend to obtain the visa for him at the consulate. The applicant did not explain why he previously indicated that he was unable or unwilling to identify the friend who applied for that visa or why, if that person was a travel agent, he initially characterized him as a friend, to whom he had been presented by another person, whom he could not or would not identify. The applicant did not indicate why he initially indicated that he had paid nothing for the visa when if, in fact, he utilized an agent to obtain it, he likely would have paid a fee for that service.

The evasive answers the applicant gave in his July 1, 1993 statement, contradicted by the amended version of events as stated in his July 25, 2006 statement, do nothing to enhance his credibility. The AAO declines to rely on the veracity of any statements the applicant now makes to support the application for waiver. Neither of the applicant's inconsistent and unreconciled versions of the provenance of the counterfeit visa is credible.

Given the circumstances of the presentation of those two conflicting histories the AAO finds that the applicant knowingly presented a counterfeit visa to gain entry into the United States, committed fraud as contemplated in section 212(a)(6)(C)(i) of the Act, and is inadmissible pursuant to that subsection. The balance of this decision will pertain to whether the applicant has demonstrated that waiver of that inadmissibility should be granted.

Section 212(i)(1) provides, in pertinent part:

> The Attorney General [now Secretary of Homeland Security] may, in the discretion of the Attorney General [now Secretary of Homeland Security], waive the application of clause (i) of subsection (a)(6)(C) in the case of an immigrant 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 [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully permanent resident spouse or parent of such an alien . . ."

The AAO notes that the record contains several references to the hardship that the applicant's children would suffer if the applicant were refused admission. Section 212(i) of the Act provides that a waiver of inadmissibility under section 212(i) of the Act is available only if the applicant establishes extreme hardship to his or her U.S. citizen or LPR spouse or parent. Congress excluded from direct consideration extreme hardship to an applicant's child or to the applicant.

In the instant case, the applicant's mother and wife are the only qualifying relatives under the statute, and the only relatives for whom the hardship determination is permissible. As the director noted in denying the application for waiver, hardship to the alien himself or to his children is not, *per se*, a permissible consideration under the statute. The hardship to the applicant or his children may be indirectly relevant to adjudication of the waiver application, but only to the extent that such hardship will cause hardship to the applicant's qualifying relatives, his mother and wife.

The concept of extreme hardship to a qualifying relative "is not . . . fixed and inflexible," and whether extreme hardship has been established is determined based on an examination of the facts of each individual case. *Matter of Cervantes-Gonzalez,* 22 I&N Dec. 560, 565 (BIA 1999). In *Matter of Cervantes-Gonzalez*, the Board of Immigration Appeals set forth a list of non-exclusive factors relevant to determining whether an alien has established extreme hardship to a qualifying relative pursuant to section 212(i) of the Act. These factors include, with respect to the qualifying relative, the presence of family ties to U.S. citizens or lawful permanent residents in the United States, family ties outside the United States, country conditions where the qualifying relative would relocate and family ties in that country, the financial impact of departure, and significant health conditions, particularly where there is diminished availability of medical care in the country to which the qualifying relative would relocate. *Id.* at 566. The BIA has held:

> Relevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists. In each case, the trier of

> fact must consider the entire range of factors concerning hardship in their totality and determine whether the combination of hardships takes the case beyond those hardships ordinarily associated with deportation. *Matter of O-J-O-,* 21 I&N Dec. 381, 383 (BIA 1996). (Citations omitted).

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 appeal brief, submitted October 10, 2006, counsel stated that the applicant supports his mother in a retirement home near his own home and transports her to doctors' appointments and to visit with her grandchildren. He further stated that the applicant's business nets approximately $100,000 annually, which constitutes approximately 80% of the family income.

In support of that assertion, counsel provided the 2004 Form 1120 of [redacted] which shows that the company had Line 28 taxable income before net operating loss deductions and special deductions of $35,259 during that year, and that it paid the applicant compensation of $55,800. The AAO notes that those two amounts, added together, equal almost $100,000.[1] The record contains no evidence to suggest that those amounts are typical, rather than representing a single fortunate year.

In a previous brief, dated July 26, 2006 and submitted with the application for waiver, counsel stated that the applicant's wife makes $2,200 per month. That amount equates to $26,400 annually. Counsel stated that the applicant's wife is unable to change jobs because she "is committed to work for her greencard sponsor full-time." Counsel did not otherwise detail the arrangement pursuant to which the applicant's wife is unable to seek other employment.

In her July 25, 2006 statement submitted on appeal, the applicant's wife stated that in her job as a patternmaker she is unable to earn an amount sufficient to support her family. She stated that her family's mortgage payment is $3,500 per month and that she and the applicant also pay for their children's education. She did not state the amount of the children's tuition and related fees.

The record contains a home loan statement that shows that the applicant's home is encumbered by a reverse amortization mortgage with a balance in excess of $1 million, a minimum payment of $3,582, an interest-only payment of $5,061, and a fully amortized principal and interest payment of $6,129 per month.

The record contains evidence from [redacted]r that was apparently submitted to support the assertion that the applicant's children have educational expenses. A letter from that company dated July 19, 2006 states that the company received $1,000 each month for May, June, and July for

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[1] Although the sum of those amounts is not, strictly speaking, the company's net income, the record contains no other evidence pertinent to the company's income and expenses, and that sum appears to be the amount to which counsel referred.

the applicant's three sons. It does not state whether this expense is ongoing or what it was to pay for. That letter purports to have been signed by J[redacted] director of the company.

The record contains invoices from [redacted]. Invoices numbered 2058, 2107, and 2137, purport to show that the company billed [redacted] $350 per month for Advance English, "matt," and pre-calculus "preparatior" for "Unvercity.". Those invoices purport to have been issued on April 25, 2006, May 26, 2006, and June 29, 2006, respectively.

Invoices 2059, 2108, and 2138, also dated April 25, 2006, May 26, 2006, and June 29, 2006, respectively, show that the company billed [redacted] $350 on each of those dates for Advance English, "matt," and Geometry "preparatior" for the SAT II examination.

Invoices 2060, 2109, and 2060 show that [redacted]r billed [redacted] $350 each month, again, on April 25, 2006, May 26, 2006, and June 29, 2006, respectively, for Advance English and math "preparatior" for middle school.

Even if authentic, those invoices do not support the proposition that the educational expenses they show are, rather than a one-time expenditure, part of an ongoing monthly obligation, as the applicant and counsel implied.

Further, two of the computer-generated invoices issued to I[redacted], although they purport to have been issued months apart, bear the same invoice number. That fact alone is sufficient to demonstrate that the invoices were not issued in the ordinary course of that company's business, but that all nine invoices were apparently fabricated on the same date, presumably to provide support for the applicant's claim of extreme hardship. Further, on all nine of those invoices the director signed her first name as '[redacted]' rather than [redacted] That the director of that educational institution is unable to spell "Math," University," "Preparation," and her own first name is unlikely. Those misspellings, taken together, appear to indicate that those invoices were prepared and signed by someone other than the director to whom they are attributed. Finally, the printed signature of [redacted] on those invoices bears no resemblance to the signature of [redacted] on the July 19, 2006 letter, which supports the finding that [redacted] did not prepare the invoices.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. Further, the applicant must resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies, absent competent objective evidence sufficient to demonstrate where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

In her July 25, 2006 statement the applicant's mother stated that she lives in a retirement home, that her social security income is insufficient to support her, and that her son helps her financially. The applicant's mother further states that the economic hardship she would suffer is nothing compared to the hardship she would suffer from being separated from the applicant. She also noted that, if the applicant were unavailable, she would be unable to visit her grandsons. The applicant's mother stated, "because of my limited financial means, I could not afford expensive plane tickets to visit

him in Korea." She did not, however, provide any reason why she could not permanently reside in Korea with her son.

In the July 26, 2006 brief submitted with the application, counsel stated that the applicant and his family cannot return to Korea because they left in 1986, have lived in the United States since 1997, and his children are citizens of Brazil. Counsel did not make clear whether he was asserting that those facts pose any legal barrier to the family returning to Korea, or whether he is alleging that it would therefore constitute a hardship to return to Korea. He stated, "They don't have ties to Korea anymore," without further explanation of that abstract statement.

As per *Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996), the totality of hardship factors must be considered to determine whether all of the hardships that would be imposed by denying the application for waiver of inadmissibility, in the aggregate, constitute extreme hardship.

The arguments interposed by counsel and the applicant pertain to emotional, logistical, and financial hardships projected if the application for waiver remains denied. No argument pertinent to health issues of the applicant's mother or wife, for instance, was presented.[2]

The evidence pertinent to the applicant's family's finances appears to be insufficient. Although counsel stated that the applicant's business nets $100,000 per year, counsel provided only the single year's tax return of a corporation. One cannot generalize about the performance of a company from a single year's tax return, absent some indication that the information for that single year is representative. Further, the record indicates that the applicant owns at least two businesses. The applicant stated, at page two of his July 25, 2006 affidavit, that one of his businesses sells women's clothes and one is a computer consultancy. The name of the company for which a tax return was provided, [redacted], appears to be a debt collection agency. Whether it pertains to all of the applicant's businesses is unclear.

Further still, that tax return is accompanied by a letter from [redacted]. Although that letter purports to indicate that [redacted] was providing the 2004 tax return to [redacted] for that company to submit to the IRS, it contains an anachronism.

That tax return indicates that the subject company pays taxes pursuant to a fiscal year that ends on September 30. The 2004 fiscal year ended, therefore, on September 30, 2005. That letter correctly advises the company to file its return and to tender payment of taxes due on or before December 15, 2005.[3] That letter, however, is dated June 15, 2006. The date on that letter indicates that it and the

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[2] The AAO regards the applicant's mother's need for transportation to her medical appointments, for instance, as logistical, rather than medical. Similarly, her need for assistance with the costs of her medications is financial, rather than medical.

[3] A Form 1120, U.S. Corporation Income Tax Return is due, absent extension, on the 15th day of the third month after the close of the tax year, if that is a business day. See Instructions for Forms 1120, Page 3, available from the Internal Revenue Service. In this case, because the petitioner reported

tax return submitted, which is neither signed nor bears any other indication that it was submitted to IRS, were not produced in the ordinary course of business, but were apparently produced in contemplation of, and to support, the instant waiver application.

Again, doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. Further, the petitioner must resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies, absent competent objective evidence sufficient to demonstrate where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). Especially in a case in which prior submission of counterfeit documents is involved, and in which other questionable evidence has been submitted, this tax return can be accorded very little credibility or evidentiary weight.

Further, assuming the information pertinent to the applicant's business is true, the applicant still failed to address options through which he might avoid the projected financial ruin he projects if waiver is not granted in this case.

The applicant's argument pertinent to financial hardship rests upon the assumption that, if waiver is not approved, his business or businesses will be lost. The applicant did not address the possibility that he might be able to continue to monitor and manage his business or businesses from abroad. In the alternative, the applicant might be able to sell his business or businesses. The proceeds might enable him to buy or build a business in Korea or elsewhere. No reason exists to assume that the applicant's financial hardship scenario would necessarily ensue from failure to approve the instant application for waiver.

The applicant's wife stated that the loss of the applicant's income would render her unable to pay the mortgage and might force her to sell the family's house. The AAO notes that the house has a mortgage of more than $1 million, and the applicant has not demonstrated that its market value is less than that amount. The record does not show that the applicant's wife would suffer hardship if she sold the family's house.

Counsel further stated that the applicant's wife earns only $2,200 per month, but provided no evidence in support of that assertion.[4] Counsel's assertions are not evidence and shall be accorded no evidentiary weight. *See INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez,* 17 I&N Dec. 503 (BIA 1980); Unsupported assertions of counsel are, therefore, insufficient to sustain the burden of proof.

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taxes pursuant to a 2004 fiscal year that ended September 30, 2005, its 2004 tax return was due, absent extension, on December 15, 2005.

[4] Complete, certified copies of the applicant's and applicant's wife's personal income tax returns for the salient years, and accompanying W-2 forms, are not requisite evidence, but are an example of evidence that might have supported the various assertions pertinent to the amount and provenance of the applicant's family's income.

The applicant's mother stated that her social security income is insufficient to support her, but provided no corroborating evidence to support that statement, and provided no evidence that she would be unable to curtail her expenses without incurring hardship. The applicant's mother's assertions, absent corroborating evidence, and more thorough discussion, are insufficient to permit this office to take her asserted economic plight into consideration.

The applicant has demonstrated that he is self-employed, but has not demonstrated the amount of his annual income, his wife's annual income, or the extent to which his wife and mother depend on his income. Under these circumstances, the AAO will assume that the diminution or loss of the applicant's income would cause his family some economic hardship. Such hardship is typical of a situation in which a family member's income is lessened or lost. That the loss of the applicant's income would cause some economic hardship will be taken into account in the final analysis of the aggregated hardship factors. The AAO will not assume, however, that the hardship that would be thus incurred would be as pronounced as the applicant, his wife, and his mother indicated.

The remaining issue is the extent of the emotional hardship that will be visited on the applicant's wife and mother if the application for waiver of ineligibility is not approved.

In his July 25, 2006 affidavit, the applicant stated that his family members love each other dearly and the thought of being separated is unbearable to them. He did not address the possibility that his family could accompany him and live in Korea or elsewhere.

In their July 25, 2006 affidavits, the applicant and applicant's wife stated that if they are separated, she will lose his emotional and logistical support. They noted that, because he is self-employed, he is able to take their children to and from school and run errands during the day. They also stated that his presence as a role model for the children is important, and projected that they will suffer psychological and emotional turmoil if separated from their father, and that their turmoil would result in hardship to the applicant's wife.

The applicant's mother stated, in her July 25, 2006 affidavit, that the possibility that her son might be forced to return to Korea and she would no longer be able to see him caused her to cry and to lose sleep. She stated that she loves her son and the prospect of separation is unbearable to her. She concluded that their separation would cause her extreme hardship. She did not address the possibility of her moving to Korea.

The record, reviewed in its entirety and in light of the *Cervantes-Gonzalez* factors, cited above, does not support a finding that the applicant's parents or spouse face extreme hardship if the applicant is refused admission and his family is divided. Rather, the record demonstrates that they would face no greater hardship than the unfortunate, but expected, disruptions, inconveniences, and difficulties arising whenever a spouse and/or child is removed from the United States.

The testimony offered by the applicant, the applicant's mother, and the applicant's wife show that the applicant has very loving and devoted family members who are extremely concerned about the

prospect of the applicant's departure from the United States. Although the depth of concern and anxiety over the applicant's immigration status is neither doubted nor minimized, the fact remains that Congress provided for a waiver of inadmissibility only under limited circumstances. In nearly every qualifying relationship, whether between husband and wife or parent and child, there is affection and a certain amount of emotional and social interdependence.

While, in common parlance, the prospect of separation or involuntary relocation nearly always results in considerable hardship to individuals and families, in specifically limiting the availability of a waiver of inadmissibility to cases of "*extreme* hardship," Congress made clear that it did not intend that a waiver be granted in every case where a qualifying relationship, and thus the familial and emotional bonds, exists.

The point made in this and prior decisions on this matter is that the current state of the law, viewed from a legislative, administrative, or judicial point of view, requires that the hardship, which meets the standard in INA § 212(i), be above and beyond the normal, expected hardship involved in such cases. U.S. court decisions have repeatedly held that the common results of removal are insufficient to prove extreme hardship. *See Hassan v. INS,* 927 F.2d 465, 468 (9th Cir. 1991), *Perez v. INS,* 96 F.3d 390 (9th Cir. 1996); *Matter of Pilch,* 21 I&N Dec. 627 (BIA 1996) (holding that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship); *Matter of Shaughnessy,* 12 I&N Dec. 810 (BIA 1968) (holding that separation of family members and financial difficulties alone do not establish extreme hardship). "[O]nly in cases of great actual or prospective injury . . . will the bar be removed." *Matter of Ngai,* 19 I&N Dec. 245, 246 (BIA 1984). Further, demonstrated financial difficulties alone are generally insufficient to establish extreme hardship. *See* INS v. Jong Ha Wang, *450 U.S. 139 (1981)* (upholding BIA finding that economic detriment alone is insufficient to establish extreme hardship).

Further still, even if the applicant had demonstrated that separation of his family would result in greater hardship than that which ordinarily pertains to such a separation, that would not necessarily result in a finding that extreme hardship is a necessary result of denying the instant application for waiver. The applicant's position that denial of waiver would result in extreme hardship relies on the assumption that the family could not, in that event, remain together in Korea or elsewhere.

In the July 26, 2006 brief submitted with the application, counsel stated that the applicant and his family cannot return to Korea because they left in 1986, have lived in the United States since 1997, and his children are citizens of Brazil. Counsel did not make clear whether he was asserting that those facts pose any legal barrier to the family returning to Korea, or whether he is alleging that it would therefore constitute a hardship to return to Korea. He stated, "They don't have ties to Korea anymore," without further explanation of that abstract statement.

In her July 25, 2006 affidavit the applicant's wife stated,

> Going back to Korea is not an option for us. We have not lived in Korea since 1993. My husband and I have no ties in Korea. My children have no ties in Korea. Thus, if

> my husband were found ineligible to permanent resident status [sic], our family will be torn apart. [Errors in the original.]

The applicant and his mother did not address the possibility of family relocation to avoid separation.

The conclusion that the applicant's family is necessarily unable to return to Korea appears to constitute a logical leap. Other than abstractly stating that the family has "no ties in Korea," counsel, the applicant, and the applicant's wife have failed to address the possibility that he could relocate his family to Korea, or Brazil,[5] or elsewhere.

The arguments pertinent to logistical and emotional hardship hinge on the poorly supported assumption that the applicant's mother, wife, and children would necessarily have to remain in the United States if he left. That assumption has not been supported to the satisfaction of the AAO.

For the various reasons above, the AAO finds that the applicant has failed to show that the economic, logistical, or emotional hardships that would result to qualifying family members from failure to grant him waiver of inadmissibility would constitute extreme hardship, either when considered separately or in the aggregate.

The AAO therefore finds that the applicant failed to establish extreme hardship to his U.S. citizen mother or LPR spouse as required under INA § 212(i), 8 U.S.C. § 1186(i). Because extreme hardship has not been established, and waiver is unavailable, this office need not dwell on whether to exercise discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of proving eligibility rests with the applicant. INA § 291, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.

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[5] The record indicates that the applicant and his wife were born in Korea. The applicant's mother was, therefore, clearly in Korea at one time. The applicant and counsel have not elected to address whether or not the various family members are now legally permitted to live there. As such, the evidence and argument in the record are insufficient to demonstrate that they are not. Further, the applicant noted, in his July 25, 2006 affidavit, that his children were born in and are citizens of Brazil, where the applicant and his family lived from 1986 to 1997. The legal status of the remainder of the applicant's family in Brazil is not clear from the record because the applicant and counsel have, again, elected not to address it. This office does not find that the applicant and his family are able to relocate to Korea or Brazil, but merely that no evidence was submitted pertinent to those options, and that they were not explored in argument. The possibility that the applicant and his family could live in Korea, Brazil, or elsewhere has not, therefore, been convincingly ruled out.