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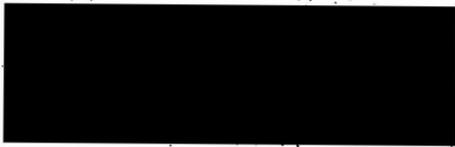
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship and Immigration Services

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PUBLIC COPY



FILE: [Redacted]

Office: PORTLAND, OREGON

Date: APR 23 2007

IN RE: Applicant: [Redacted]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under § 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:



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 District Director, Portland, Oregon, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of India who is married to a naturalized U.S. citizen and is the beneficiary of an approved petition for alien relative. He is also the son of lawful permanent resident (LPR) parents and the father of a U.S. citizen child. The applicant was found inadmissible pursuant to § 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 a benefit under the Act (work authorization) by submitting an asylum application with false identity and other information. He seeks a waiver of inadmissibility under § 212(i) of the Act, 8 U.S.C. § 1182(i) in order to remain in the U.S. with his family.

The district director found that the applicant had failed to establish that his wife or LPR parents would suffer extreme hardship on account of his inadmissibility, and he denied the waiver application accordingly. On appeal, counsel asserts that Citizenship and Immigration Services (CIS) failed to properly consider and analyze all of the extreme hardship factors set forth in the applicant's case, as required by legal precedent decisions. Counsel submits a copy of the applicant's daughter's birth certificate, the 2004 federal tax return filed by his parents, and a U.S. Department of State 2004 country conditions report about India. The AAO has reviewed the entire body of evidence and concurs with the district director's decision.

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.

The record reflects that the applicant entered the United States on July 5, 1992 and was admitted as a visitor for pleasure with authorization to remain until January 4, 1993. The applicant did not leave the United States, but rather on September 10, 1993 he submitted an asylum application in which he falsified his identity, manner of entry, and background information. The applicant did not reveal his misrepresentation until he sought another benefit, adjustment of status, in 2005. He is therefore inadmissible.

Section 212(i) of the Act provides that:

- (1) The Attorney General may, in the discretion of the Attorney General, 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 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.

Section 212(i) of the Act provides that a waiver of the bar to admission resulting from § 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship to the citizen or lawfully resident spouse

or parent. There is no provision for considering hardship experienced by the applicant's child or any other relatives such as in-laws, except as it may affect a qualifying relative. In cases where an applicant fails to establish extreme hardship to a qualifying relative, the applicant is statutorily ineligible for relief, and no purpose would be served in discussing whether the applicant merits a waiver as a matter of discretion.

In *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565-66 (BIA 1999), the Board of Immigration Appeals (BIA) provides a list of factors deemed relevant in determining whether an alien has established extreme hardship pursuant to § 212(i) of the Act. These factors include the presence of a 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 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 addition, 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, in *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), the BIA held that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship. In *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), the Ninth Circuit Court of Appeals defined "extreme hardship" as hardship that was unusual or beyond that which would normally be expected upon deportation. The Ninth Circuit emphasized that the common results of deportation are insufficient to prove extreme hardship. Moreover, the U.S. Supreme Court held in *INS v. Jong Ha Wang*, 450 U.S. 139 (1981) (upholding BIA finding that economic detriment alone is insufficient to establish extreme hardship), that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship.

The AAO notes that extreme hardship to the applicant's spouse or parents must be established in the event that they reside in India or the United States as they are not required to reside outside the United States based on the denial of the applicant's waiver request.

Counsel on appeal does not address the effect of relocating to India on the applicant's parents. He does, however, contend that the applicant's spouse would suffer extreme hardship as a result of moving to India to be with the applicant, because she is originally from Zambia, was brought up in Great Britain, and has never

lived in India. Counsel points out that the applicant's wife works as a pharmacist and takes care of her mother, and that she would suffer both financial as well as emotional hardship if she chose to leave the United States. Counsel indicates, for example, that the applicant's wife is not licensed to work as a pharmacist in India, and asserts that she should not be expected to start all over in India. The record includes only general information about the status of the Indian economy in 2004. Counsel has provided no documentation regarding the applicant's wife's career prospects in India, nor has it been documented that she would suffer greater financial hardship than other spouses who relocate abroad if she moved to India with the applicant. It must be pointed out that a change in economic status is a common accompaniment to such a move and cannot be considered extreme hardship. See *Perez v INS*, 96 F.3d 390 (9th Cir. 1996); *Ramirez-Durazo v INS*, 794 F.2d 491, 498 (9th Cir. 1986).

Counsel contends that in the event of the applicant's removal, his wife, child, and parents would remain in the United States. Counsel maintains that the applicant's wife relies on the applicant for assistance in caring for her mother and their child, and that she would suffer in the extreme if the applicant were not there. Counsel also asserts that the applicant's parents rely on the applicant for financial support. The record reflects that the applicant's parents have a limited income; however, there is no evidence on the record that the applicant would be unable to contribute to his family's finances from a location outside the United States, that the applicant's wife is unable to address her family's financial needs through her own employment, or that the applicant's qualifying relatives have no other source of assistance aside from the applicant.

The AAO has also considered the statements of the applicant's spouse and parents, all of whom describe their dependency on the applicant. The applicant's spouse indicates that should the applicant be removed from the United States she would not be able to work at full capacity because of a loss of concentration and a balanced state of mind. She further asserts that she is the only care giver for her mother who has diabetes, hypertension and degenerative joint disease and that losing her daughter's care would devastate her mother and cause the applicant's spouse hardship and emotional distress. If the applicant is removed, the applicant's spouse asserts that she and her child would not survive emotionally in the United States. She also states that she has never lived in India and would not survive emotionally if she moved there. The applicant's parents both state that they rely on the applicant to supplement their income and that without his help they could not afford basic necessities. Beyond his financial assistance, the applicant helps his parents with their daily chores.

Again, the record provides no documentation in support of the claims made by the applicant's spouse or his parents. There is no evidence in the record to establish that the reaction of the applicant's spouse to living in India or remaining in the United States would result in her emotional collapse. Neither does the record document the extent of the financial assistance provided by the applicant to his parents or that, as previously noted, he would be unable to assist them financially from outside the United States. Going on record without supporting documentation is not sufficient to meet the applicant's burden of proof in these proceedings. See *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The record, reviewed in its entirety, does not support a finding that the applicant's parents or spouse would face extreme hardship if the applicant is removed. Rather, the record demonstrates that they would face no

greater hardship than the unfortunate, but expected, difficulties arising whenever a spouse or son is removed from the United States.

In proceedings for application for waiver of grounds of inadmissibility under § 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.