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U.S. Citizenship  
and Immigration  
Services

*H/2*

[Redacted]

FILE:

[Redacted]

Office: LOS ANGELES, CA

Date: JUN 18 2007

IN RE:

Applicant:

[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 District Director of the Los Angeles, California office denied the Form I-601, Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i). 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 50-year-old native and citizen of the Philippines who was found 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). The record reflects that the applicant is the spouse of a U.S. citizen and the son of a lawful permanent resident. He seeks a waiver of inadmissibility in order to remain in the United States and adjust his status to that of a lawful permanent resident under section 245 of the Act, 8 U.S.C. § 1255, as the beneficiary of an approved immediate relative petition filed on his behalf by his U.S. citizen wife.

The district director found that the applicant failed to establish extreme hardship to his U.S. citizen spouse or lawful permanent resident mother. Specifically, the district director noted that the applicant failed to provide sufficient documents to corroborate his claims. The application was accordingly denied.

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.

8 U.S.C. § 1182(a)(6)(C)(i). The district director based the finding of inadmissibility under this section on the fact that the applicant entered the United States on November 27, 1986 using a B1/B2 tourist visa under the name [REDACTED]. The applicant does not dispute this finding. The district director's determination of inadmissibility is therefore affirmed. The question remains whether the applicant qualifies for a waiver.

Section 212(i) of the Act provides, in pertinent part:

(i) (1) 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 . . .”

8 U.S.C. § 1182(i)(1). A section 212(i) waiver is therefore dependent upon a showing that the bar to admission imposes an extreme hardship on the U.S. citizen or lawfully resident spouse or parent of the applicant. Hardship to the applicant himself is not a permissible consideration under the statute.

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).

The applicant's spouse, [REDACTED] is a 53-year-old naturalized U.S. citizen. The applicant and his spouse were married on October 5, 2004. The record contains an affidavit executed by the applicant's spouse where she states that it would be a hardship for her to separate from the applicant, whom she has known for 16 years. *See* Affidavit of [REDACTED] at ¶ 5. She claims that she has no immediate relatives who live nearby. *Id.* at ¶ 8. She further claims that she only works part time, and that it would be an economic hardship to work more hours and be totally responsible for the household (including the applicant's mother). *Id.* at ¶ 9. She states that she has high blood pressure, and is "afraid that the potential financial, emotional and physical strains may cause irreparable damage to [her] health." *Id.* The record does not contain any documentary evidence supporting these claims.

The applicant's mother, is a 72-year-old lawful permanent resident in the United States since 1993. The record contains an affidavit submitted by the applicant's mother where she states that it will be a hardship for her should her son not be allowed to remain in the United States. *See* Affidavit of [REDACTED] at ¶ 4. She claims that she lives with the applicant and relies on him to drive her on errands and to doctor's appointments related to her arthritis. *Id.* at ¶¶ 7 and 8. She further claims that she lives on a fixed income (from Social Security) and relies on the applicant for additional financial support. *Id.* at ¶ 6. The record does not contain any documentary evidence corroborating her claims.

The AAO notes that the Form I-601, Application for Waiver of Grounds of Inadmissibility, indicates that the applicant has many siblings residing nearby, including a sister who is residing with him. The record contains copies of the naturalization certificates and permanent resident cards of the applicant's relatives, including his brothers and sisters.

The record, reviewed in its entirety and in light of the *Cervantes-Gonzalez* factors, cited above, does not support a finding that neither the applicant's spouse nor his mother would face extreme hardship if the applicant is refused admission. Rather, the record demonstrates that they will face no greater hardship than the unfortunate, but expected, disruptions, inconveniences, and difficulties arising whenever a spouse is removed from the United States. Indeed, neither the applicant's wife nor his mother described their claimed hardship as extreme in their affidavits. Congress provided for a waiver of inadmissibility, but under limited

circumstances. In limiting the availability of the waiver to cases of “extreme hardship,” Congress did not intend that a waiver be granted in every case where a qualifying relationship exists. 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 (9<sup>th</sup> Cir. 1991); *Perez v. INS*, 96 F.3d 390 (9<sup>th</sup> 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). 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).

While the AAO has carefully considered the impact of separation resulting from the applicant’s inadmissibility, a waiver is nevertheless not to be granted in every case where possible separation from a spouse or son is at issue. *See Ramirez-Durazo v. INS*, 794 F.2d 491, 499 (9<sup>th</sup> Cir. 1986) (holding that “lower standard of living in Mexico and the difficulties of readjustment to that culture and environment . . . simply are not sufficient”); *Shoostary v. INS*, 39 F.3d 1049 (9<sup>th</sup> Cir. 1994) (stating that “the extreme hardship requirement . . . was not enacted to insure that the family members of excludable aliens fulfill their dreams or continue in the lives which they currently enjoy. The uprooting of family, the separation from friends, and other normal processes of readjustment to one’s home country after having spent a number of years in the United States are not considered extreme, but represent the type of inconvenience and hardship experienced by the families of most aliens in the respondent’s circumstances”).

In this case, the record does not contain sufficient evidence to show that the hardship faced by the applicant’s spouse or mother rises to the level of extreme. The applicant’s spouse and mother claim to have medical conditions that are not unusual, they do not appear to be financially dependent on the applicant, and they have family nearby including one of the applicant’s sisters who resides with them. There is no evidence that the applicant’s departure, albeit unfortunate, would disrupt his wife’s or mother’s lives in any way different than the disruption experienced by any other family facing similar circumstances.

The AAO therefore finds that the applicant failed to establish extreme hardship to his U.S. citizen spouse or lawful permanent resident mother as required under section 212(i) of the Act, 8 U.S.C. § 1182(i).

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. 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.