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U.S. Citizenship  
and Immigration  
Services

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FILE:

Office: NEW DELHI, INDIA

Date:

DEC 04 2008

IN RE:

Applicant:

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

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).

A handwritten signature in black ink, appearing to read "John J. Grissom".

John J. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The Officer-in-Charge, New Delhi, India, denied the Application for Waiver of Grounds of Inadmissibility under section 212(i) of the Immigration and Nationality Act (the 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 native and citizen of Bangladesh 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 applicant is the son of a U.S. citizen, and the beneficiary of an approved Petition for Alien Relative filed on his behalf by his mother. He presently seeks a waiver of inadmissibility in order to obtain lawful permanent resident status in the United States.

The officer-in-charge found that the applicant was ineligible for a waiver of inadmissibility because he failed to establish that his mother would face extreme hardship should his application be denied.

On appeal, the applicant states that he regrets the actions that led to the inadmissibility charge. He resubmits, in relevant part, an affidavit signed by his mother and a letter from his sister. The record also contains a letter relating to the applicant's mother's need for cataract surgery. The applicant maintains that his mother is elderly, and that her physical and mental health condition is worsening due to the family's separation.

Evidence in the record indicates that the applicant submitted a fraudulent birth certificate to the U.S. Consulate in Bangladesh in an attempt to obtain a visa in 2001. The AAO finds the applicant to be inadmissible as charged under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i).<sup>1</sup> The question remains whether the applicant qualifies for a waiver.

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

(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

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<sup>1</sup> 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.

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 mother, [REDACTED], is a 73-year-old native of Bangladesh and citizen of the United States. [REDACTED] immigrated to the United States in 1997, and became a U.S. citizen upon her naturalization on October 14, 2003. She resides in New York with her daughter (the applicant's sister), her son-in-law, and grandson. The record includes a letter from her optometrist relating to her need for cataract surgery. The applicant's sister indicates that [REDACTED]'s health "is going from bad to worse." See Statement of [REDACTED]. She states that her mother's suffering would be reduced if she were reunited with the applicant. *Id.* She further claims that she cannot take care of [REDACTED] because she is responsible for her then 17-year-old son with learning disabilities. *Id.* The AAO notes that the record does not contain any documentary evidence of [REDACTED]'s physical condition (other than the optometrist letter) or mental health. The record does not suggest that [REDACTED] requires any specific assistance or care. The record also does not contain any evidence of the applicant's nephew's learning disability. The applicant's sister does not explain how Mrs. [REDACTED] has been cared for since her arrival in the United States in 1997. The AAO notes again that [REDACTED] resides with her daughter. The AAO further notes that the applicant stated that his family in the United States is "well-employed." See Statement of the Applicant on Form I-290B, Notice of Appeal to the AAO.

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 mother would face extreme hardship if the applicant is denied the waiver. Rather, the record demonstrates that she faces no greater hardship than the unfortunate, but expected, disruptions, inconveniences, and difficulties arising whenever a family member is denied admission to the United States. 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 from family resulting from the applicant's inadmissibility, a waiver is nevertheless not to be granted in every case where separation from a spouse is at issue. *See Shoostary v. INS*, 39 F.3d 1049 (9th 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 suggests that the applicant's mother is residing with her U.S. citizen daughter and her family. There is no indication that she is experiencing extreme emotional, financial, or other hardship due to their separation. The record does not support a finding that the applicant's mother's hardship is greater than the hardship experienced by other individuals in her circumstances.

The AAO notes that the record also does not support a finding of extreme hardship should the applicant's mother return to Bangladesh. In this regard, the AAO notes that the applicant's mother, as a U.S. citizen, is not required to relocate but may remain in the United States. The AAO notes that the record indicates that the applicant's mother continues to travel to Bangladesh, but does not indicate whether she would consider relocation. The AAO finds that any potential hardship that would result should she relocate to Bangladesh would be the common results of any relocation and therefore not amount to "extreme hardship." *See Ramirez-Durazo v. INS*, 794 F.2d 491, 499 (9th Cir. 1986) (holding that "lower standard of living in Mexico and the difficulties of readjustment to that culture and environment . . . simply are not sufficient").

The AAO therefore finds that the applicant has failed to establish extreme hardship to his U.S. citizen 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.