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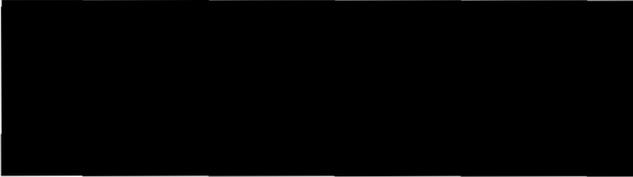
IN RE:



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:



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).

John F. Grissom, Acting Chief
Administrative Appeals Office

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

The applicant is a native and citizen of Guatemala who was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for having entered the United States by fraud or willful misrepresentation. The applicant is married to a naturalized U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside with her husband and child in the United States.

The district 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 Excludability (Form I-601) accordingly. *Decision of the District Director*, dated August 1, 2005.

On appeal, counsel contends that the district director failed to consider the hardship factors in their totality. In addition, counsel contends that being deported to El Salvador, where the applicant has dual citizenship, would constitute extreme hardship based on the Department of Homeland Security's designation of El Salvador for temporary protected status.

The record contains, *inter alia*: a copy of the marriage license of the applicant and her husband, Mr. [REDACTED] indicating that they were married on February 15, 2000; an affidavit from [REDACTED] copies of the U.S. Department of State's Profiles for Guatemala and El Salvador; letters of support for the applicant and [REDACTED] letters from [REDACTED]'s employer; financial and tax documents; and a photo of the applicant with her husband and son. The entire record was reviewed and considered in rendering this decision.

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.

Section 212(i) provides:

(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. . . .

The record shows that the applicant entered the United States on April 12, 2001, using a visitor's visa she obtained in Guatemala. The applicant concedes that she told the consular officer that she was single, when in fact, she was already married, in order to procure a visitor's visa to enter the United States. *Brief for Applicant* at 3, dated September 26, 2005 (admitting she misrepresented her marital status in order to "avoid the longer process of having her husband file an I-130 family-based petition" and that she thought she would not be approved for a visitor's visa if the consular officer knew she had a U.S. citizen husband). Therefore, the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act for willfully misrepresenting a material fact in order to procure admission into the United States.

A section 212(i) waiver of the bar to admission resulting from violation of section 212(a)(6)(C)(i) 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 of the applicant. *See* Section 212(i)(1) of the Act, 8 U.S.C. § 1182(i)(1). Hardship the applicant or her children experience upon deportation is not a permissible consideration under the statute. *Id.* 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, 565-566 (BIA 1999), provides a list of factors the Bureau of Immigration Appeals deems relevant in determining whether an alien has established extreme hardship under 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.

It is not evident from the record that the applicant's spouse would suffer extreme hardship as a result of the applicant's waiver being denied.

██████████ contends he would suffer extreme hardship if his wife's waiver application is denied because he works approximately seventy hours per week and his wife "takes care [of] everything else." *Affidavit of* ██████████, dated April 26, 2005. He states that his wife takes care of their son, cooks and cleans, manages the bills, and does all of the shopping. *Id.* He claims Guatemala and El Salvador are very poor countries that do not have enough resources. *Id.* He states that he and his wife are very close and that if she were deported, he would have to go to El Salvador with her, but that he does not want to expose his family to the difficult situation there. *Id.*

The AAO recognizes that ██████████ will endure hardship as a result of the denial of his wife's waiver application and is sympathetic to the family's circumstances. However, their situation, if ██████████ decides to remain 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 based on the record. The Board of Immigration Appeals and the Courts of Appeals have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. 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. *See also Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991) (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).

In addition, there is insufficient evidence to show that [REDACTED] would experience extreme hardship if he moved to Guatemala with his wife to avoid the hardship of separation. His claim that he “knows nothing about its culture, climate, customs, people, or geography,” *Brief for Applicant, supra*, at 11, does not rise to the level of extreme hardship. The record indicates that [REDACTED] is a forty-five year old, hard-working man who has worked as a supervisor for a landscaping company since July of 1994. There is no indication in the record that he is not in good health, and he does not contend he is unfamiliar with Spanish.

To the extent [REDACTED] contends he would suffer extreme hardship if he followed his wife to El Salvador based on its designation for temporary protected status, *id.* at 4-8, the AAO notes that there is no evidence in the record that the applicant has dual citizenship for both Guatemala, the country of her birth, and El Salvador. Going on record without supporting documentary evidence is insufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (BIA 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). In any event, even assuming the applicant has dual citizenship, the applicant’s brief makes clear that if her waiver application is denied, [REDACTED] “chooses to follow his wife to El Salvador rather than Guatemala,” because “he has family members still living in El Salvador.” *Brief for Applicant, supra*, at 11. Under these circumstances, [REDACTED]’s voluntary choice of going to El Salvador cannot be said to constitute extreme hardship.

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant’s spouse 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 she merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(6)(C) 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.