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**U.S. Citizenship
and Immigration
Services**

H2

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: OCT 06 2008

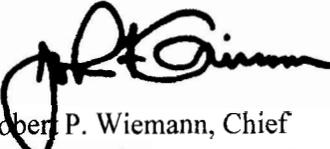
IN RE: Applicant: [REDACTED]

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:

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 Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Sri Lanka who procured entry into the United States in September 1998 by presenting a passport and U.S. visa belonging to another individual. The applicant is inadmissible to the United States under section 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 entry into the United States by fraud or willful misrepresentation. He seeks a waiver to remain in the United States with his U.S. citizen spouse.

The director concluded that the applicant had 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 Director*, dated May 6, 2006.

In support of this appeal, counsel for the applicant submits a brief, dated June 21, 2006. The entire record was reviewed and considered in rendering this 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.

Section 212(i) of the Act provides that:

The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General (Secretary), 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 Attorney General (Secretary) 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....

Matter of Cervantes-Gonzalez, 22 I&N Dec. 560, 565-566 (BIA 1999) provides a list of factors the Board of Immigration Appeals deems relevant in determining whether an alien has established extreme hardship. 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 applicant's U.S. citizen spouse first asserts that she will suffer emotional hardship were the applicant removed from the United States. As the applicant's spouse states:

My husband [the applicant] means everything to me, and to our continued happiness in the United States....

Affidavit of [REDACTED], dated September 29, 2005.

There is no documentation establishing that the applicant's spouse's emotional hardship is any different from that of other families separated as a result of immigration violations. Moreover, no objective evidence is provided to corroborate the applicant's spouse's statements regarding her mental state, such as statements from a professional in the medical field documenting that the applicant's spouse suffers and/or will suffer emotional hardship due to the applicant's removal. Finally, no documentation has been provided that establishes that the applicant's spouse would be unable to travel to Sri Lanka to visit with the applicant. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *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 AAO recognizes that the applicant's spouse will endure hardship as a result of separation from the applicant. However, her situation, if she remains in the United States, is typical to individuals separated as a result of removal and does not rise to the level of extreme hardship based on the record. 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). 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. *Hassan v. INS*, *supra*, held further that the 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 removed from the United States.

The applicant's spouse further states that she will suffer extreme financial hardship were the applicant removed from the United States. The applicant's spouse asserts:

I am not employed and stay at home as a housewife, caring for our house, and my husband [the applicant] while he works.... If my husband is not permitted to remain in the United States, I will suffer an extreme hardship as I have no employment skills, which will force me to go on welfare...because my husband would be unable to support me from Sri Lanka....

Id. at 1.

Courts considering the impact of financial detriment on a finding of extreme hardship have repeatedly held that, while it must be considered in the overall determination, "[e]conomic disadvantage alone does not constitute "extreme hardship." *Ramirez-Durazo v. INS*, 794 F.2d 491, 497 (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.”); *Shoostary v. INS*, 39 F.3d 1049 (9th Cir. 1994) (stating, “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.”); *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); *INS v. Jong Ha Wang*, 450 U.S. 139 (1981) (upholding BIA finding that economic detriment alone is insufficient to establish extreme hardship).

No documentation has been provided that explains why the applicant's spouse is unable to obtain gainful employment in the United States, as she has been able to do in the past. *See Form G-325A, Biographic Information*, dated February 20, 2001. Furthermore, no financial documentation relating to the applicant and her spouse has been provided with the appeal to corroborate the statements made by the applicant's spouse that she would experience extreme financial hardship were the applicant to relocate abroad due to his inadmissibility. As referenced above, going on record without supporting documentary evidence is not sufficient for establishing extreme hardship pursuant to section 212(i) of the Act.

Finally, it has not been established that the applicant would be unable to obtain gainful employment in Sri Lanka, thereby assisting his spouse with respect to the U.S. household expenses should the need arise. Counsel asserts that the applicant could not support his wife because Sri Lanka is a “...a third world agricultural country in the midst of a terrorist inspired civil war...”. *Brief in Support of Appeal*, dated June 21, 2006. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). While the applicant's U.S. citizen spouse may need to make adjustments with respect to the maintenance of the household and her own care while the applicant relocates abroad based on his inadmissibility, it has not been shown that such adjustments would cause the applicant's spouse extreme hardship.

The AAO notes that extreme hardship to a qualifying relative must also be established in the event that he or she relocates abroad based on the denial of the applicant's waiver request. In this case, the applicant has not asserted any reasons why his U.S. citizen spouse is unable to reside with the applicant in Sri Lanka, or in any other country of their choosing, due to the applicant's inadmissibility.

As such, a review of the documentation in the record, when considered in its totality, reflects that the applicant has failed to show that his U.S. citizen spouse would suffer extreme hardship if he were not permitted to remain in the United States, and alternatively, the applicant has failed to show that his U.S. citizen spouse would suffer extreme hardship were she to relocate abroad with the applicant based on his inadmissibility. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether the applicant merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of proving eligibility remains entirely 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. The waiver application is denied.