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U.S. Citizenship
and Immigration
Services

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FILE:

Office: PHOENIX, AZ

Date: OCT 28 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:

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 Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601) was denied by the District Director, Phoenix, Arizona. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and the Form I-601 will be denied.

The applicant is a native and citizen of Brazil who was found to be 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 seeks a waiver of her ground of inadmissibility under section 212(i) of the Act, 8 U.S.C. § 1182(i).

The district director found the applicant had failed to establish that her U.S. citizen husband would suffer extreme hardship if the applicant were refused admission into the United States. The Form I-601 was denied accordingly.

On appeal the applicant asserts, through counsel, that it would be dangerous for her husband to live in Brazil, and that her husband would suffer extreme emotional and financial hardship if she were denied admission into the United States, and he either moves to Brazil to be with her, or he remains in the U.S. without her.

Section 212(a)(6)(C)(i) of the Act provides, in pertinent part, that:

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 in August 2004, the applicant traveled to the United States with a B2 visitor visa and stated to a U.S. immigration officer that the purpose of her travel was to visit her boyfriend and friends. The applicant admitted during her adjustment of status interview that the actual purpose of her entry was to marry her U.S. citizen boyfriend, which she did on September 9, 2004. The applicant stated further during her adjustment of status interview that she told the immigration officer that her entry was for visitation purposes, because she knew she would be denied entry if she said she intended to marry a U.S. citizen and reside in the United States. Based on the above information, the applicant is inadmissible under section 212(a)(6)(C)(i).

Section 212(i) of the Act provides that:

The Attorney General [now Secretary, Department 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 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 [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.

The applicant's husband is a U.S. citizen. The applicant is thus eligible to apply for relief under section 212(i) of the Act.

In *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565-66 (BIA 1999), the Board of Immigration Appeals (Board) provided a list of factors it deemed relevant in determining whether an alien had established extreme hardship. The factors included 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 Board held in *Matter of Ige*, 20 I&N Dec. 880, 882, (BIA 1994), that, "relevant [hardship] factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists."

"Extreme hardship" has been defined as hardship that is unusual or beyond that which would normally be expected upon deportation. *See Perez v. INS*, 96 F.3d 390 (9th Cir. 1996.) U.S. court decisions have repeatedly held that the common results of deportation (removal) or exclusion (inadmissibility) are insufficient to prove extreme hardship. *See Perez v. INS*, *supra*. *See also, Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991.)

The applicant asserts, through counsel, that her husband would move to Brazil if she were denied admission into the United States. The applicant asserts that her husband would suffer extreme financial and emotional hardship in Brazil, and that he could also suffer physical harm due to the violence and crime in Brazil. The applicant additionally indicates that her husband () would suffer extreme emotional hardship if he remained in the U.S. without the applicant.

The record contains the following evidence pertaining to the applicant's waiver of inadmissibility, extreme hardship claim:

A U.S. birth certificate reflecting that () was born in Oklahoma on June 1, 1974 (presently 34 years old.)

A Nevada marriage certificate reflecting that the applicant and () married on September 15, 2004.

A February 2, 2006, letter signed by () stating in pertinent part that he was born and raised in Oklahoma, and that all of his family (parents, siblings, nieces and nephews) live in the U.S. He states that he has no desire to live in Brazil. He indicates, however, that in order to be with his wife, he would move to Brazil if she were denied admission into the United States. Mr. () indicates that he is in the process of getting a promotion at his work, and that within a few months he will have the seniority required to become a food and beverage manager at a hotel located in San Antonio, Texas. Mr. () states that his employment future with his company will end if he moves to Brazil. He states further that he would not be able to get work in the hospitality industry in Brazil because he does not speak Portuguese or Spanish. Mr. () states that he and the applicant recently bought a home, an automobile and a timeshare together, and he indicates that he will be unable to afford these financial commitments without his wife's extra income, or if he moved to Brazil. Mr. () states that

he is not good at learning foreign languages, and that he does not believe he would be able to learn Portuguese. Mr. [REDACTED] indicates further that he fears that he could be harmed in Brazil based on the poor economy and the violent atmosphere in the country.

A January 27, 2006, letter prepared by a certified public accountant, projecting [REDACTED] and the applicant's future household and living costs

A February 24, 2006, letter from the Director of Human Resources Operations for J.W. Marriott Desert Ridge Resort and Spa in Phoenix, Arizona. The letter states that [REDACTED] has been employed with his company since April 24, 2002, when he was hired as a supervisor for one of the restaurants. Mr. [REDACTED] now holds the position of assistant restaurant manager at one of the hotel restaurants. The letter states that in Marriott management positions outside of the U.S. there is often a preference that associates, and especially managers, are able to speak the native language of the country where the hotel is located. The letter indicates that [REDACTED] is eligible to apply for various international positions within Marriott, however because he speaks only English, his opportunity to gain employment would depend on the individual language requirements of the hotels where he applied. He states that it is also uncommon for a junior management level position to transfer internationally, and that the majority of international transfers are for executive management level positions, which [REDACTED] is presently not qualified to perform.

A February 23, 2006, letter from the Director of Restaurants for Meritage Steakhouse at J.W. Marriott Desert Ridge Resort and Spa, reflecting that [REDACTED] has received accolades and promotions with J.W. Marriott, and that he has been an ideal associate who shows good leadership and determination.

January 2006, statements written by [REDACTED]' parents, brother and two sisters, reflecting that they all live in Oklahoma, and that for financial reasons they would not be able to visit Mr. [REDACTED] if he moved to Brazil. [REDACTED]' family members indicate that they, their children, and [REDACTED]' grandmother and great-grandmother would miss [REDACTED] if he moved to Brazil. [REDACTED]' youngest sister indicates further that [REDACTED] helps her family financially when needed.

A Psychological Interview of [REDACTED] prepared on February 14, 2006, reflects in its History section that [REDACTED] met the applicant, who is a Brazilian attorney, when she participated in a cultural exchange program sponsored by his company. After her program ended, [REDACTED] traveled to Brazil to propose marriage to the applicant, which she accepted. They married shortly afterwards in the United States. The Psychological Interview indicates in its Clinical Observations section that [REDACTED] has no history of major mental illness, but that he is extremely preoccupied and stressed over the possibility of the loss of his wife. The interview observations indicate that [REDACTED] reports problems focusing on his job, and that his concentration problems would likely increase if his wife were deported, which could seriously impact his ability to do his job.

A copy of the April 15, 2005, U.S. Department of State (DOS), Consular Information Sheet on Brazil.

The AAO finds, upon review of all of the evidence, that the applicant has failed to establish that her husband would suffer hardship beyond that normally experienced upon the removal of a family member, if the applicant were denied admission into the United States, and [REDACTED] moved with her to Brazil. The AAO notes that the DOS Consular Information Sheet on Brazil is general in nature, and does not establish that the applicant would be subjected to violent behavior against him if he moved with the applicant to Brazil. The AAO notes further that [REDACTED] is in the early stages of his career. The record contains no evidence to corroborate the assertion that [REDACTED] would be unable to learn Portuguese if he moves to Brazil, and the evidence indicates there may be international employment opportunities in [REDACTED] profession. The record additionally reflects that the applicant previously worked as an attorney in Brazil, and the record contains no evidence to indicate that she would be unable to find work in her profession, or that [REDACTED] would suffer extreme financial hardship if he lived with his wife in Brazil. Furthermore, “[t]he mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship.” *INS v. Jong Ha Wang*, 450 U.S. 139 (1981.) The U.S. Ninth Circuit Court of Appeals additionally held in *Ramirez-Durazo v. INS*, 794 F.2d 491, 498 (9th Cir. 1986), that hardship involving a lower standard of living, difficulties of readjustment to a different culture and environment and reduced job opportunities, did not rise to the level of “extreme hardship.” Distress from being unable to reside close to family in the United States has also been held not to be the type of hardship that is considered extreme. *See 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.) It is further noted that [REDACTED]’ already resides away from his family, as they live in Oklahoma, and he lives with his wife in Arizona.

The AAO finds that the applicant also failed to establish that her husband would suffer financial or emotional hardship beyond that normally experienced upon the removal of a family member, if the applicant were denied admission into the United States and [REDACTED] remained in the United States. The record reflects that the applicant’s husband has been the couple’s primary financial supporter, and the projected expense evidence contained in the record is unsupported by any corroborative financial evidence. Moreover, as previously noted, “[t]he mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship.” *INS v. Jong Ha Wang, supra*. The affidavit evidence and psychological interview evidence additionally fail to demonstrate that [REDACTED] would suffer emotional hardship beyond that commonly associated with removal if the applicant were denied admission into the United States.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is on the applicant to establish eligibility for the benefit sought. A review of the evidence in the record, when considered in its totality, reflects that the applicant has failed to establish that her husband would suffer extreme hardship if she is denied admission into the United States. The appeal will therefore be dismissed, and the application will be denied.

ORDER: The appeal is dismissed. The application is denied.