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U.S. Department of Homeland Security  
20 Massachusetts Ave. N.W., Rm. A3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

PUBLIC COPY

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[REDACTED]

[REDACTED]

FILE:

Office: BALTIMORE, MD

Date:

SEP 10 2008

IN RE:

[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 PETITIONER:

[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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

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

The applicant is a native and citizen of Colombia. He was found to be 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 sought to procure a visa by fraud or misrepresentation. The applicant is married to a U.S. citizen and is the beneficiary of an approved Petition for Alien Relative. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with his spouse.

The district 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 Inadmissibility (Form I-601) accordingly. *See Decision of the District Director*, dated July 24, 2006.

On appeal, counsel asserts that denial of the waiver would result in extreme hardship to the applicant's U.S. Citizen wife and her daughter. In support of the appeal, counsel submitted a psychological evaluation of the applicant's wife and daughter and information on Crohn's disease, a condition that the applicant's mother-in-law suffers from. The record also includes affidavits and letters from the applicant and his wife, documents related to the family's automobile insurance, school records for the applicant's stepdaughter, and a letter from an organization thanking the applicant for a donation. The entire record was reviewed and considered in arriving at a decision on the appeal.

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

- (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:

- (1) 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 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 AAO notes that the record contains several references to the hardship that the applicant's stepdaughter would suffer if the applicant were removed from the United States. Section 212(i) of the Act provides that a waiver of section 212(a)(6)(C)(i) of the Act is applicable solely where the applicant establishes extreme hardship to his or her citizen or lawfully resident spouse or parent. It is noted that Congress did not include hardship to an alien's child as a factor to be considered in assessing extreme hardship. In the present case, the

applicant's spouse is the only qualifying relative, and hardship to the applicant's stepdaughter will not be separately considered, except as it may affect the applicant's spouse.

A section 212(i) waiver of the bar to admission resulting from violation of section 212(a)(6)(C) 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. Hardship the alien himself experiences upon deportation is irrelevant to section 212(i) waiver proceedings; the only relevant hardship in the present case is hardship suffered by the applicant's wife. 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).

In *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560 (BIA 1999), the Board of Immigration Appeals (BIA) provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship. These 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.

U.S. court decisions have additionally held that the common results of deportation or exclusion are insufficient to prove extreme hardship. *See Hassan v. INS*, 927 F.2d 465, 468 (9<sup>th</sup> Cir. 1991). For example, in *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), the BIA 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, in *Perez v. INS*, 96 F.3d 390 (9<sup>th</sup> Cir. 1996), the court 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. In *Hassan v. INS*, *supra*, the court further held 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 deported. Moreover, the U.S. Supreme Court additionally held in *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship.

The record reflects that the applicant is a forty-five year-old native and citizen of Colombia who entered the United States without inspection at an unknown port-of-entry in 1999. On December 30, 1998, he applied for a C1/D crewman's visa at the U.S. Consulate in Bogota, Colombia and presented a fraudulent letter stating that he had been offered employment by Norwegian Cruise Line. The applicant later admitted that he had purchased the fraudulent letter for \$600 and he had no such offer of employment. The applicant was found inadmissible under section 212(a)(6)(C)(i) of the Act and a previously issued C1/D visa was revoked due to this finding. *See copy of applicant's passport and C1/D visa with notation cancelling the visa*. The record further reflects that the applicant's wife is a thirty-two year-old native and citizen of the United States. They currently reside together in Towson, Maryland with the applicant's stepdaughter.

The applicant's wife states that the applicant makes many contributions to the community and also takes care of her and her daughter. See Affidavit of [REDACTED] dated June 14, 2006. She further states,

Since I've met my husband, he has turned our life around emotionally, mentally, spiritually and financially. Losing my husband will be detrimental to me and my daughter as we love him more than anything. In addition, we will lose our home, business, and my daughter will be put out of her school as he has been the blessing to cover her tuition.

No evidence was submitted to document the applicant's income, the family's expenses, or to establish that they own a business or a home. 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)). No recent income tax returns were submitted to document the applicant's income, but the AAO notes that income tax returns submitted with the applicant's affidavit of support indicate that his wife earned \$35,406 in 2004 and \$30,752 in 2003. A letter signed by the applicant and his wife and submitted with the waiver application further states that the applicant's wife is employed as a credit advisor and earns almost \$36,000 per year. It therefore appears that the applicant's wife is gainfully employed and is not dependent on the applicant financially. There is insufficient evidence on the record to establish that the applicant's removal would result in extreme economic hardship to his wife if she remained in the United States. Further, even if the loss of the applicant's income would have a negative impact on his wife's financial situation, the U.S. Supreme Court held in *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship.

In support of the appeal, counsel submitted a psychological evaluation prepared by [REDACTED] a Licensed Clinical Social Worker who interviewed the applicant, his wife, and her daughter on August 5, 2006. The evaluation states that the applicant's wife's medical history is "unremarkable" and she states she has no history of any major psychiatric illness. See evaluation from [REDACTED] dated August 22, 2006. The evaluation describes in detail the applicant's stepdaughter's upbringing and relationship with the applicant and states that she "has had a series of painful losses" and is very reactive to loss and stress. The evaluation further states: "The child in this situation is in need of stable parenting and probably needs psychological intervention. Unfortunately, if [REDACTED] is deported [REDACTED]'s mother will be rendered more impaired and dysfunctional." Evaluation from [REDACTED] at 4. The evaluation does not discuss in any detail the mental health of the applicant's wife aside from mentioning that her "psychosocial development was unstable and disorganized." Evaluation from [REDACTED] at 2. There is no finding that she suffers from any condition or impairment and no explanation for the conclusion that she would become "more impaired and dysfunctional" if the applicant is removed from the United States. Most of the report concentrates on the applicant's stepdaughter and her sensitivity and "fear of loss and abandonment." The evaluation also discusses the medical and psychological condition of the applicant's mother-in-law, who is a recovering drug addict and suffers from Crohn's disease. [REDACTED] states, "As her mother's needs increase the care of her mother will become more of an issue for [REDACTED]. In the situation with [REDACTED] gone and her daughter [REDACTED] being needier [REDACTED] is even more overtaxed and less able to manage the stress." Evaluation from [REDACTED] at 5.

Although the input of any mental health professional is respected and valuable, the AAO notes that the report from [REDACTED] is based on a single interview rather than an ongoing relationship between a mental health professional and the applicant's wife. Further, the report focuses on the applicant's stepdaughter, who is not a qualifying relative, and does not reach any specific conclusion about the mental health of the applicant's wife or document any history of diagnosis or treatment for any psychological condition. It contains general statements indicating the applicant's wife would be impaired if the applicant were removed without describing how this conclusion was reached. Further, the conclusions reached in the submitted evaluation, being based on a single interview, do not reflect the insight and elaboration resulting from an established relationship with a psychologist. This renders the psychologist's findings speculative and diminishes the evaluation's value to a determination of extreme hardship.

The applicant's wife states that she loves the applicant and he has turned her life around emotionally. There is no evidence on the record, however, to establish that the emotional effects of being separated from the applicant are more serious than the type of hardship a family member would normally suffer when faced with her spouse's deportation or exclusion. Although the depth of her distress over the prospect of being separated from her spouse is not in question, a waiver of inadmissibility is only available where the resulting hardship would be unusual or beyond that which would normally be expected upon deportation or exclusion. The prospect of separation or involuntary relocation nearly always results in considerable hardship to individuals and families. But in specifically limiting the availability of a waiver of inadmissibility to cases of "extreme hardship," Congress did not intend that a waiver be granted in every case where a qualifying relationship and familial and emotional bonds exist. The emotional hardship the applicant's wife would experience if she remains in the United States without the applicant appears to be the type of hardship normally to be expected when a family member is excluded or deported.

The applicant states that his wife and stepdaughter would suffer extreme hardship in Colombia due to the loss of her income, separation from family member in the United States, and the poor social, economic, and political conditions there. *See letter signed by [REDACTED] and [REDACTED] dated June 13, 2006.* Counsel did not submit any information on conditions in Colombia or evidence of the applicant's wife's family ties in the United States. Only the applicant is required to relocate to Colombia; the applicant's wife is not required to do so. There is insufficient evidence submitted that the applicant's relocating to Colombia would result in hardship to the applicant's wife beyond that which would normally be expected as a result of deportation. *See INS v. Jong Ha Wang*, 450 U.S. 139 (1981) (stating that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship); *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).

The emotional and financial difficulties that the applicant's wife would suffer appear to be the type of hardships that family members would normally suffer as a result of deportation or exclusion. U.S. court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. *See Perez v. INS*, 96 F.3d 390 (9<sup>th</sup> Cir. 1996) (defining "extreme hardship" as hardship that was unusual or beyond that which would normally be expected upon deportation); *Hassan v. INS*, 927 F.2d 465, 468 (9<sup>th</sup> Cir. 1991); *Matter of Pilch*, *supra*.

In this case, the record does not contain sufficient evidence to show that the hardships faced by the qualifying relative, considered in the aggregate, rise beyond the common results of removal or inadmissibility to the level of extreme hardship. The AAO therefore finds that the applicant has failed to establish extreme hardship to his U.S. citizen spouse as required under section 212(i) of the Act.

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.