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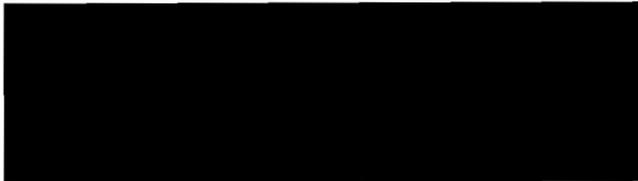
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FILE: Office: CALIFORNIA SERVICE CENTER Date: **APR 28 2009**

IN RE: 

APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(i) of the Act,  
8 U.S.C. § 1182(i)

ON BEHALF OF PETITIONER:



**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, 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 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 Guyana who was admitted to the United States on November 27, 1998 at New York, New York after presenting fraudulent Guyanese passport and U.S. visa under the name [REDACTED]. She previously attempted to enter the United States on November 8, 1998 at Miami Florida with a fraudulent Canadian passport and was removed from the United States on November 9, 1998. The applicant was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Act for having procured admission to the United States by fraud or willful misrepresentation of a material fact. The applicant is the spouse of a U.S. Citizen and the beneficiary of an approved Petition for Alien Relative. She 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 her husband and children.

The service center director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the application accordingly. *See Decision of Service Center Director* dated January 3, 2007.

On appeal, counsel asserts that Citizenship and Immigration Services (“USCIS”) erred in denying the applicant’s waiver application and failed to consider all of the evidence of hardship to the applicant’s husband and parents. *See Brief in Support of Appeal* at 3. Specifically, counsel states that the applicant’s husband would suffer hardship if he relocated to Guyana due to his length of residence and family and property ties in the United States and his inability to find employment in Guyana and lack of ties there. *Brief* at 2. Counsel further asserts that the applicant’s parents would be unable to relocate to Guyana due to lack of adequate medical care there and would suffer hardship if the applicant were removed because they would be unable to travel and visit her and their grandchildren due to their age and poor health. *Brief* at 2-3. In support of the waiver application, counsel submitted affidavits from the applicant’s husband and father, documentation related to the home in Orlando, Florida owned by the applicant’s husband, letters from the applicant’s husband’s employer, certificates of naturalization and permanent resident cards for the applicant’s relatives, documentation related to the purchase of a home in New York by the applicant’s father, and documentation related to the employment and medical condition of the applicant’s father. 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 [Secretary] may, in the discretion of the [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 [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.

Section 212(i) of the Act provides that a waiver of the bar to admission resulting from section 212(a)(6)(C)(i) of the Act is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member. 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 *Matter of Shaughnessy*, 12 I&N Dec. 810 (BIA 1968), the BIA held that separation of family members and financial difficulties alone do not establish extreme hardship. Moreover, 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 the present case, the record reflects that the applicant is a thirty-three year-old native and citizen of Guyana who has resided in the United States since November 27, 1998, when she was admitted at New York, New York after presenting a passport and visa belonging to another individual. The applicant's husband is a thirty-seven year-old native of Guyana and citizen of the United States. They currently reside together in South Ozone Park with their two children and other relatives.

Counsel asserts that the applicant's husband will suffer extreme hardship beyond the common results of deportation if the applicant is removed from the United States. Counsel states that the applicant's husband has resided in the United States for 18 years, and would be unable to find employment if he returned to Guyana. He additionally states that if he relocated to Guyana, he would lose his home in Florida because he would be unable to earn sufficient income to make the payments. In support of these assertions, counsel submitted letters from the applicant's husband's employers and copies of a deed and title insurance policy for his home on Florida. In his affidavit, the applicant's husband states that he would not be able to remain in the United States and raise their children without the applicant, and he and their children would relocate to Guyana with her if she were removed. *Affidavit of* [REDACTED] dated October 17, 2006, at 3. He states

that all of his close relatives live in the United States, he has no close relatives and no home in Guyana, and he would have no job in Guyana. *Affidavit of* [REDACTED] at 3. He further states that he would lose money invested in his home in Orlando and in the home owned by the applicant's father, because "there is no immediate way to liquidate them," and additionally states, "I know that economic conditions in Guyana are such that my children will be heavily affected in a negative way by the move." *Id.*

The AAO notes that no documentation concerning economic conditions was submitted to support the assertion that the applicant and her husband would not be able to find employment there and would suffer financial hardship if they relocate there. 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)). Further, although a deed and other documentation was submitted to establish that the applicant's husband purchased a home in Orlando, Florida, no information was submitted concerning the mortgage on the property to support an assertion that the applicant's husband would be unable to make payments and would lose the home if he relocated to Guyana. Based on the evidence on the record, there is no indication that there are any unusual circumstances that would cause financial hardship beyond what would normally be expected as a result of the applicant's removal. Although relocating to Guyana might have an adverse effect of the financial situation and standard of living of the applicant's family, the record does not establish that this hardship would be other than a common result of exclusion or deportation. *See INS v. Jong Ha Wang*, *supra* (holding that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship).

Counsel asserts that the applicant's parents would suffer extreme hardship if the applicant and her family were removed from the United States because they would be unable to travel to Guyana due to their medical conditions. Counsel states that they would likely never see the applicant or their grandchildren again and the applicant's father's "failing health would prevent him from securing employment." *Brief* at 3. Counsel further asserts that they would likely lose their home because they would be unable to make their mortgage payments without the assistance of the applicant and her husband, who currently help pay the mortgage. *Id.* In support of these assertions counsel submitted a copy of a "Stent Identification Card" and a copy of a business card for the applicant's father's doctor. Further, in his affidavit, the applicant's father states that the applicant's mother is disabled due to diabetes and he is diabetic and had stents placed in his arteries in 2006 because of a heart blockage. *See Affidavit of* [REDACTED] dated October 17, 2006 at 2-3. He further states that treatment would not be available in Guyana for his condition and he also could not go back to Guyana because their entire family in the United States and he would be unlikely to find employment in Guyana due to his age and length of time away from the country. *See Affidavit of* [REDACTED] at 3.

Significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate, are relevant factors in establishing extreme hardship. The evidence on the record does not establish, however, that the applicant's parents suffer from a serious medical condition that would cause them extreme hardship if the applicant were removed from the United States. The record contains a copy of a stent identification card for the applicant's father with no further information about his condition, such as a detailed letter in plain language from his physician explaining the nature and long-term prognosis of his condition and any treatment or medication needed. Without more detailed information, the AAO is not in the position to reach conclusions concerning the severity of a medical condition or any limitations on travel or other activities resulting from the condition. Further, counsel did not

submit any information on the availability of medical care in Guyana to support a claim that the applicant's father would not have access to adequate care there, and no evidence was submitted to support assertions that the applicant's father suffers from diabetes or her mother from arthritis. As noted above, going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici, supra*.

Counsel asserts that the applicant's father might lose his home if the applicant were removed and her husband accompanied her to Guyana. The applicant's father states in his affidavit that he purchased his home with the assistance of the applicant's husband and her brother, who also resides in the home. *See Affidavit of [REDACTED]* at 2. He further states that they share the monthly mortgage payment of \$1520 per month, and he could not have purchased and maintained the home without the help of the applicant's husband. *Id.* The AAO notes that although a deed for the property was submitted by counsel, no documentation concerning the mortgage on the home or evidence that the applicant and her husband assisted in making payments was submitted. The evidence on the record is insufficient to establish that they might lose their home without the financial assistance of the applicant and her husband. Further, even if the removal of the applicant had a negative effect on the financial situation of the applicant's parents, the record does not establish that this hardship would be other than a common result of exclusion or deportation. *See INS v. Jong Ha Wang, supra* (holding that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship).

The emotional and financial hardship the applicant's husband and parents would suffer appears to be the type of hardship that a family member 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*, 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 applicant provided no information or evidence to support a claim that her husband would experience hardship if he were to remain in the United States without her. Therefore, the AAO cannot make a determination of whether he would suffer extreme hardship if he remained in the United States.

In this case, the record does not contain sufficient evidence to show that the hardships faced by the qualifying relatives, 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 her spouse or parents 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.