



U.S. Citizenship
and Immigration
Services

H₂

[REDACTED]

FILE: [REDACTED]

Office: MILWAUKEE, WI

Date:

DEC 07 2009

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 APPLICANT:

SELF-REPRESENTED

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).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Acting District Director, Milwaukee, Wisconsin. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant is a native and citizen of Pakistan 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 fraud or willful misrepresentation. The applicant is married to a 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 his wife in the United States.

The acting district director found that the applicant failed to establish extreme hardship to a qualifying relative and denied the application accordingly. *Decision of the Acting District Director*, dated March 1, 2006.

The record contains, *inter alia*: a copy of the marriage certificate of the applicant and his wife, indicating they were married on February 11, 2001; a letter and an affidavit from the applicant; two affidavits and a letter from ; numerous letters of support from friends and family, including a letter from brother who has served in the U.S. military; letters from the applicant's and employers; copies of the couple's lease; financial and tax documents; and a copy of an approved Petition for Alien Relative (Form I-130). 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 acting district director found, and the applicant admits, that in May 1999, the applicant entered the United States using fraudulent documentation for which he paid approximately \$10,000. *Affidavit from* [REDACTED], dated October 24, 2001. Therefore, the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act for fraud of willfully misrepresenting a material fact to obtain an immigration benefit.

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). 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 Board 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.

In this case, the applicant's wife, [REDACTED] states that every day with the applicant is special and her life would never be complete without her husband. She states she has learned a lot about her husband's culture. She states that Pakistan is a poor country and she has learned from her husband that character and trust are more important than money. She states she "do[es] not imagine [she] could handle living in Pakistan." [REDACTED] states her family loves her husband and respects him.

[REDACTED] states that when she learned her husband's waiver application had been denied, she cried for three days and her entire family was physically upset. She states that her husband has not been in any trouble since entering the United States. [REDACTED] claims she massages her husband almost every night before he goes to bed and that he is her best friend and life partner. She also contends her father died of prostate cancer a few months ago and that she now feels like she is losing her husband. [REDACTED] contends she has suffered from anxiety and depression for many years and has sought counseling for her problems. *Letter from* [REDACTED], dated March 20, 2006; *Affidavits of* [REDACTED] dated October 29, 2001, and September 4, 2001.

A letter from the applicant states that he loves his wife wholeheartedly. The applicant contends he cannot imagine living without her a single day. He states it was a big shock for everybody to learn that his waiver application was denied. The applicant states he feels like his heart has been broken and that he and his wife cannot eat and are not sleeping well. The applicant apologizes for entering the country illegally and asks to be able to live the American dream. *Letter from* [REDACTED] dated March 21, 2006.

After a careful review of the record evidence, 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.

The AAO recognizes that [REDACTED] will endure hardship if her husband's waiver application were denied and is sympathetic to the couple's circumstances. Significantly, aside from stating she does not think she could handle living in Pakistan, [REDACTED] does not discuss the possibility of moving to Pakistan to avoid the hardship of separation, and she does not address whether such a move would represent a hardship to her. However, the AAO recognizes the political situation in Pakistan is precarious and the U.S. Department of State has warned U.S. citizens to defer non-essential travel to Pakistan. *U.S. Department of State, Travel Warning, Pakistan*, dated June 12, 2009.

Nonetheless, [REDACTED] has the option of staying in the United States without her husband and the record does not show that the level of [REDACTED]'s emotional hardship rises to the level of extreme hardship. Although [REDACTED] contends that separation from her husband would be emotionally devastating, there is no allegation or evidence that [REDACTED]'s situation is unique or atypical compared to other individuals separated as a result of deportation or exclusion. *See Perez v. INS*, 96 F.3d 390 (9th Cir. 1996) (defining extreme hardship as hardship that was unusual or beyond that which would normally be expected upon deportation). There is no letter or other evidence from any health care professional substantiating [REDACTED]'s claim she has had anxiety and depression for many years and has sought counseling. Going on record without any 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 addition, there is no allegation [REDACTED] has any medical condition for which she requires her husband's assistance. To the extent the record contains tax records and other financial documentation, the AAO notes that the applicant does not make a financial hardship claim.

Rather, the applicant and his wife's situation is typical of 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. *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).

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 he 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.