

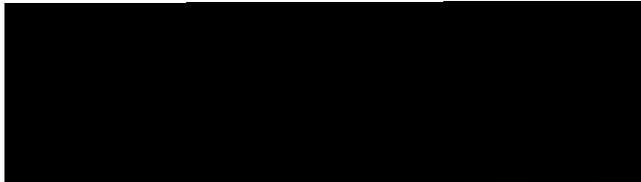
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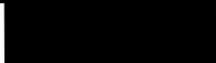
U.S. Citizenship
and Immigration
Services

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FILE:



Office: CHICAGO, IL

Date:

MAR 09 2009

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 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.

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The application for waiver of grounds of inadmissibility was denied by the District Director, Chicago, Illinois. The Administrative Appeals Office (AAO) dismissed a subsequent appeal on April 21, 2006. A Motion to Reopen was filed by the applicant on May 24, 2006 and is now before the AAO. The motion will be granted. The underlying waiver application is denied.

The AAO dismissed the applicant's appeal in 2006 upon finding that the applicant's mother, a U.S. citizen, would not face extreme hardship should a waiver of inadmissibility under section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i), be denied. Specifically, the AAO noted that the applicant's mother did not appear to be financially dependent on the applicant. The AAO further noted the applicant's mother's medical condition, but found that her health was under control and found no evidence that she was dependent on the applicant for her medical care. The AAO noted that the applicant's mother resides with the applicant's sisters, and that the applicant's other siblings reside nearby and would continue to be a source of emotional support. Finally, the AAO noted that the applicant's mother did not indicate whether she would consider relocating to the Philippines.

According to the regulation at 8 C.F.R. § 103.5(a)(2), a motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. The applicant's motion is accompanied by a brief, a copy of the applicant's mother's 2005 income tax return, copies of two lawful permanent resident cards, and a 2001 letter signed by the applicant's mother. The file also contains letters submitted in 2008, signed by the applicant and his spouse.

The applicant, through counsel, maintains that a waiver of inadmissibility should be granted because his mother would face extreme hardship should she relocate to the Philippines. *See* Motion to Reopen. In support of his claim, counsel cites the applicant's mother's age and health. *Id.* Counsel further claims that the waiver should be granted on family unity grounds. *Id.* Counsel also explains that his mother receives \$979 per month in social security payments, that she resides with the applicant's sister, and that she suffers from high blood pressure and colon problems. *Id.* Counsel indicates that the applicant drives his mother to her physician appointments. *Id.*

The AAO notes that the applicant's mother's letter had previously been submitted, and considered in adjudicating his waiver application. The AAO further notes the statements in the recent letters from the applicant and his spouse indicating how they have become accustomed to life in the United States, explaining that their entire family resides in the United States, and noting the lower standard of living and lack of family ties in the Philippines.¹

The AAO notes the applicant's arguments regarding his mother's potential relocation to the Philippines given her age and medical condition, and family ties to the United States. Specifically, the applicant indicates that his mother is 69 years old, receives \$979 in social security payments monthly, and suffers from high blood pressure, colon problems, heart condition, thyroid problems and uterine bleeding. *See* Applicant's Motion at 3. The applicant also notes that his mother resides with his sister, and that almost their entire family resides in the United States. *Id.* at 4. On the basis of these new arguments, the AAO

¹ The AAO notes that hardship to the applicant and his spouse are not a relevant consideration for purposes of a waiver of inadmissibility under section 212(i) of the Act, 8 U.S.C. § 1182(i).

finds that relocation to the Philippines would likely result in extreme hardship to the applicant's mother. The AAO finds that the applicant's mother would face extreme hardship should she relocate given her strong family ties in the United States, her length of residence in the United States and her poor health. Nevertheless, the applicant has failed to provide any new or additional evidence to support his claim that his mother would face extreme hardship should she remain in the United States.

As noted in the AAO's 2006 decision, the financial and emotional hardships cited by the applicant are common to any individual facing similar circumstances and do not rise to the level of "extreme." *See Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991); *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996); *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); *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).

In proceedings for application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of proving eligibility rests with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. The motion will therefore be dismissed.

ORDER: The motion is granted. The underlying waiver application is denied.