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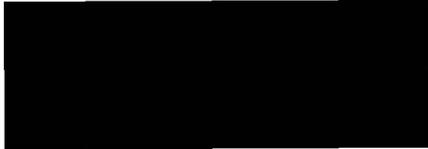
U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
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FILE: [REDACTED]

Office: MIAMI, FLORIDA

Date: MAY 05 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 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 District Director, Miami, Florida, 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 who has resided in the United States since August 11, 1997, when she was admitted as a visitor for pleasure with authorization to remain until February 10, 1998. She 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 procured a visa through 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 her spouse.

The district 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 the District Director* dated December 20, 2006.

On appeal, counsel for the applicant asserts that the applicant's husband would experience extreme emotional and financial hardship if the applicant were removed from the United States. Specifically, counsel claims that the applicant's husband has been receiving treatment for anxiety and memory problems and has become very attached to his wife and stepchildren. *See Counsel's Statement in Support of the Appeal*. Counsel further asserts that the applicant's husband relies on the income provided by the applicant, who has become "an important financial provider to her household." *Id.* Counsel additionally states that if the applicant's husband were to relocate to Colombia with the applicant, he would suffer extreme hardship due to dangerous conditions there and having to leave his two daughters who reside in the United States. *Id.* In support of the waiver application, counsel submitted letters from the applicant's stepdaughters, her mother-in-law and father-in-law, her cousin, a family friend, and the pastor of her church. Counsel also submitted a letter from a psychologist who has provided counseling to the applicant's husband, a copy of a deed for the home owned by the applicant and his wife, and family photographs. 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 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 forty year-old native and citizen of Colombia who has resided in the United States since August 11, 1997, when she was admitted as a visitor for pleasure with authorization to remain until February 10, 1998. The applicant remained in the United States beyond that date, and while residing in the United States in October 2002, she applied for and obtained a B2 visa in Bogota, Colombia. She sent her passport to Colombia and obtained fraudulent stamps in the passport indicating that she had returned to Colombia in 1998 and stated on the application that she was residing in Colombia. *See Sworn Statement of* [REDACTED] dated September 30, 2005. The applicant is therefore inadmissible under section 212(a)(6)(C)(i) of the Act for having obtained a visa through fraud or misrepresentation of a material fact. The applicant married her husband, a forty-six year-old native and citizen of the United States, on April 10, 2003. The applicant and her husband reside in Miami, Florida with their two children.

Counsel asserts that the applicant's husband would experience extreme hardship if he relocated to Colombia with the applicant because he would be separated from family members in the United

States, including his adult children, and also due to the ongoing civil strife and lack of security there. *Counsel's Statement in Support of Appeal*. Counsel submitted letters from the applicant's two daughters, but no documentation concerning his assertion about conditions in Colombia. The AAO notes, however, that a travel warning issued by the U.S. Department of State states,

The Department of State continues to warn U.S. citizens of the dangers of travel to Colombia. While security in Colombia has improved significantly in recent years, violence by narco-terrorist groups continues to affect some rural areas as well as large cities. The potential for violence by terrorists and other criminal elements exists in all parts of the country. . . . The incidence of kidnapping in Colombia has diminished significantly from its peak at the beginning of this decade. Nevertheless, terrorist groups such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and other criminal organizations continue to kidnap and hold civilians for ransom or as political bargaining chips. See *Travel Warning for Colombia* dated March 25, 2009.

It appears that relocating to Colombia at the present time would pose a risk to the safety of the applicant's husband in light of dangerous conditions there, including terrorist violence and kidnappings for ransom. When considered in the aggregate, these conditions, when combined with the emotional hardship that would result from separation from his family member in the United States and the loss of his employment and home in the United States, would constitute extreme hardship.

Counsel additionally asserts that the applicant's husband would suffer extreme hardship if he remained in the United States because of the emotional effects of separation from the applicant and financial hardship due to loss of her income. *Counsel's Statement in Support of the Appeal*. In support of this assertion counsel submitted a letter from a psychologist who has provided psychotherapy to the applicant's husband since 2004. The letter states that the applicant has attended psychotherapy by himself and with the applicant and his two stepchildren and "has been dealing with issues related to his wife's illegal status." *Letter from* [REDACTED] dated July 24, 2006. The letter further states that the applicant's husband is experiencing symptoms of anxiety in response to the situation and has "considerable memory problems" for a person of his age. *Letter from* [REDACTED]. Dr. [REDACTED] further states that the applicant's husband is very attached to his wife and stepchildren and is feeling great pain at the prospect of being separated from them, and she concludes that separation of the applicant's husband from the applicant and her children would result in "considerable and excessive hardship" for the entire family, particularly the applicant's husband. *Letter from* [REDACTED]

Significant conditions of health of a qualifying relative, 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 is insufficient to establish, however, that the applicant's husband suffers from a psychological condition that is serious enough to result in extreme hardship. The letter from [REDACTED] indicates that he is suffering from symptoms of anxiety and that she has provided psychotherapy to the entire family, but does not provide any more detail about his condition. The letter does not provide a specific diagnosis and

does not provide detail concerning the nature of the treatment the applicant's husband is receiving, such as the frequency of his psychotherapy sessions, and whether any other treatment or medication is recommended. Without more detailed information, the AAO is not in the position to reach conclusions concerning the severity of a medical or psychological condition or the treatment and assistance needed.

Counsel asserts that the applicant's husband would suffer extreme emotional hardship if the applicant were removed, but the evidence on the record is insufficient to establish that any emotional difficulties the applicant's husband would experience are more serious than the type of hardship a family member would normally suffer when faced with the prospect of his spouse's deportation or exclusion. Although the depth of his distress caused by the prospect of being separated from his wife 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 exists.

Counsel asserts that the applicant's husband would also suffer financial hardship if the applicant were removed because the applicant "has held steady employment and has become an important financial provider to her household." *Counsel's Statement in Support of the Appeal*. The AAO notes that the record indicates that both the applicant and his wife are employed. *See letter from applicant's employer and copies of paychecks for the applicant and her husband submitted with Affidavit of Support*. Copies of income tax returns were also submitted with the affidavit of support, but no W-2 forms were submitted to document how much of this income was earned by the applicant. Further, no documentation was submitted with the waiver application or appeal concerning the family's expenses or the overall financial situation of the applicant and her husband. 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)). 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 separation from the applicant. Any financial impact of the loss of the applicant's income therefore appears to be a common result of exclusion or deportation, and would not rise to the level of extreme hardship for the applicant's husband. *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 would experience if he is denied admission to the United States 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).

In this case, the record does not contain sufficient evidence to show that any 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 her 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.