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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
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U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED] Office: BOSTON

Date: **MAY 15 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:

[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.

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).

John F. Grissom
Acting Chief, Administrative Appeals Office

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

The applicant is a native and citizen of Guinea-Bissau 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 having entered the United States by fraud. The applicant is married to a naturalized 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 district director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the application accordingly. *Decision of the District Director*, dated October 20, 2006.

The record contains, *inter alia*: a letter from the applicant's wife, a statement from the applicant; a copy of the couple's marriage certificate indicating they married on February 14, 2004; a copy of naturalization certificate; documentation that filed for bankruptcy in 1998; a letter from a psychiatrist; a letter from a physician; copies of Ms. medical records; a psychological report for 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 district director found, and the applicant admits, that he entered the United States using another person's passport. *Statement of* undated. Therefore, the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act for entering the United States by fraud.

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 Bureau 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 she was born and raised in Laos where her father was killed when she was fourteen years old. She states that the next year, the Communists took her away from her family and forced her to work on a farm for a year. She claims her mother arranged for her to be married at age sixteen to a man who was twenty-eight years old. [REDACTED] states her husband took her to Thailand where they stayed in a refugee camp. They had a son born in Thailand before coming to the United States in 1980. [REDACTED] states they had their second child in 1980 in the United States and that in 1982, her husband left her. Ms. [REDACTED] further states that in 1997, when her older son turned eighteen, he began to cross-dress, causing her to have a nervous breakdown. She saw a therapist in 1998 for one year and took Xanax and another anti-anxiety medication for over two years. [REDACTED] attempted suicide by overdosing on the prescription medications in August 1998. She said she saw no other way to solve her problems – her son had stolen her credit cards, putting her in debt and ultimately causing her to file for bankruptcy. [REDACTED] married her second husband in 1999, but they divorced after four years. She met the applicant in August 2002. [REDACTED] states the applicant is a very calm and steady person who comforts her when she is stressed. She states she owns a small business and that he helps her at work. She claims he helps with the housework and gives her massages to relieve the tension in her back. In addition, [REDACTED] states her brother-in-law lost his leg in a car accident in November 2004, and that three of her relatives died in Laos in 2004 and 2005. [REDACTED] claims she has had a very difficult life and that she has been afraid of losing the people she loves ever since her father's death. She contends the applicant "is [her] rock," and that without him, she would be devastated. *Statement of* [REDACTED] undated.

A letter from a psychiatrist in the record indicates [REDACTED] was seen on July 13, 1998, July 31, 1998, and again on September 30, 1998, for a "stress precipitated anxiety condition." The letter

states that [REDACTED] “was found to be stable” on September 30, 1998, and has not been seen since then. *Letter from [REDACTED] dated July 29, 2005.*

Medical records indicate [REDACTED] was admitted to the hospital on September 7, 1998, and discharged on September 9, 1998. The record indicates she attempted suicide by taking an overdose of pills. The day after she was admitted to the hospital, the record shows [REDACTED] “was in fair spirits,” “hopeful,” and “not suicidal.” [REDACTED] indicated she was ready to meet the challenges in her life and requested a letter for her lawyer indicating that she was seeking treatment. *The William W. Backus Hospital, Admission/Discharge Summary, dated September 9, 1998.*

A psychological report in the record indicates [REDACTED] complains of periods of anxiety, difficulty breathing, excessive fatigue, and lower abdominal pain. The report states [REDACTED] has experienced a series of traumatic events in her life that go well above the amount most people experience. The report further states that “[w]hile she has learned how to manage her life around these events, she does experience the impact of them across all areas of her functioning.” The report states [REDACTED] has reduced work productivity, limited social activities, and “somatic distress” including feeling anxiety and worrying throughout the week. The report also states she is “continually fearful of becoming medically incapacitated.” The report concludes that “[g]iven Ms. [REDACTED] current state of agitation and concern, it is important for her to have consistency in her social support system and daily routine. Aggravating her current state will most likely lead to increased symptoms of anxiety and somatic distress.” *Diagnostic Evaluation by [REDACTED] dated August 31, 2005.*

A letter from [REDACTED] physician states that [REDACTED] suffers from a panic disorder, anxiety, and heart palpitations. [REDACTED] physician concludes that she would suffer extreme hardship if she had to move to Guinea-Bissau because of the lack of availability of treatment and lack of a social support system. [REDACTED] physician further concludes that she would suffer extreme hardship if her husband were deported as her psychiatric symptoms would be exacerbated. *Letter from [REDACTED] January 10, 2007.*

After a careful review of the record, there is insufficient evidence showing that the applicant’s wife would suffer extreme hardship as a result of the applicant’s waiver application being denied.

The AAO recognizes that [REDACTED] has experienced significant traumas in her past and is sympathetic to her circumstances. However, there is insufficient evidence in the record to show that the hardship she would experience if the applicant’s waiver application were denied rises to the level of extreme hardship. Significantly, [REDACTED] does not discuss the possibility of moving to Guinea-Bissau to avoid the hardship of separation from her husband, and she does not address whether such a move would represent a hardship to her. To the extent [REDACTED] physician concludes she would suffer extreme hardship if she had to move to Guinea-Bissau because of the lack of available treatment and the lack of a social support system, there is no indication [REDACTED] requires treatment of any sort. In addition, because [REDACTED] failed to address the possibility of moving to Guinea-Bissau, it is unknown whether she would have a social support

system there. According to the applicant's Biographic Information, both of his parents live in Guinea-Bissau. The record does not indicate whether or not the applicant has other family members residing in Guinea-Bissau, whether [REDACTED] has ever traveled there, or whether she has ever met her husband's family.

If [REDACTED] chooses to remain in the United States, their situation is typical to 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. In addition, *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), 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. *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).

Regarding the psychological report, although the input of any mental health professional is respected and valuable, the AAO notes that the report is based on two one-hour interviews and, thus, fails to reflect an ongoing relationship between a mental health professional and the applicant's wife. There is no indication any psychological tests were administered during either of these sessions. Moreover, the conclusions reached in the submitted evaluation do not reflect the insight and elaboration commensurate with an established relationship with a psychologist, thereby rendering the therapist's findings speculative and diminishing the evaluation's value to a determination of extreme hardship. Although there is evidence [REDACTED] attempted suicide in 1998, four years prior to meeting the applicant, [REDACTED] herself does not claim to be suicidal. Indeed, the record shows that she was in good spirits, hopeful, and no longer suicidal the day after her suicide attempt, and a letter from a psychiatrist confirmed that she was stable weeks after her suicide attempt and had not sought further treatment. *The William W. Backus Hospital, Admission/Discharge Summary, supra; Letter from [REDACTED], supra*. To the extent Ms. [REDACTED]'s physician conclusively states that [REDACTED] suffers from a panic disorder and anxiety, there is no evidence regarding who diagnosed her with these disorders.

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's wife 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.