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U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
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U.S. Citizenship  
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**MAY 18 2009**

FILE: [REDACTED] Office: PHILADELPHIA Date:

IN RE: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the  
Immigration and Nationality Act (INA), 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

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 Acting District Director, Philadelphia, Pennsylvania. 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 China who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for entering the United States using a fraudulent name, “ [REDACTED],” and a fraudulent passport. 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 her husband and children in the United States.

The acting district director found that the applicant failed to establish extreme hardship to her spouse and denied the waiver application accordingly. *Decision of the Acting District Director*, dated August 13, 2006.

On appeal, counsel contends that the acting district director misapplied the facts and erred in not finding extreme hardship.

The record contains, *inter alia*: a copy of the marriage certificate of the applicant and her husband, [REDACTED] indicating they were married on January 17, 2001; a copy of [REDACTED] naturalization certificate; copies of the birth certificates for the couple’s three U.S. citizen children; a statement from the applicant admitting she used a fraudulent passport to enter the United States; the 2004 U.S. Department of State Country Reports on Human Rights Practices for China and other background material; financial and tax documents; and a copy of an approved Immigrant Petition for Alien Relative (Form I-130). The entire record was reviewed and considered in rendering this decision on the appeal.

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 record shows, and the applicant admits, that she entered the United States on August 7, 1997, using a fraudulent passport she purchased for \$8,000. *Statement of Entry by [REDACTED]*, dated May 23, 2006. Therefore, the record shows that the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), 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) 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 pursuant to section 212(i) of 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.

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.

According to counsel, the applicant's husband, [REDACTED] would be unable to meet his financial responsibilities and could not continue operating his 24-hour laundromat business if the applicant were removed from the United States. In addition, counsel contends [REDACTED] entire family resides in the United States and that he has no family in China. Furthermore, counsel states [REDACTED] fears that if the applicant returns to China, she would face persecution for violating China's one-child family planning policy and for illegally departing the country. Counsel asserts [REDACTED] could not return to China with his wife because he was previously involved in student demonstrations in China and fears retaliation from the Chinese government due to his participation. *Brief in Support of Applicant's Appeal from the Decision of the District Director*.

Significantly, there are no statements, affidavits, or letters in the record from either the applicant or [REDACTED]. Without any statements from the applicant or her husband, it is unclear whether the hardship [REDACTED] would experience if the applicant's waiver application were denied rises to the level of extreme hardship. Although counsel makes numerous assertions in his brief, the unsupported assertions of counsel do not constitute evidence. *See Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988);

*Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The AAO recognizes that [REDACTED] will suffer hardship as a result of his wife's waiver application being denied and is sympathetic to their circumstances; however, 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).

To the extent counsel contends [REDACTED] will experience financial hardship if his wife departed the United States, there is no evidence the applicant has ever financially contributed to the family's household expenses as the applicant has never been employed in the United States. *Biographic Information (Form G-325A)*, signed by the applicant May 2, 2005 (indicating no employment since August 1997). In any event, even assuming some economic hardship, as the U.S. Supreme Court held in *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship. *See also 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).

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 she 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.