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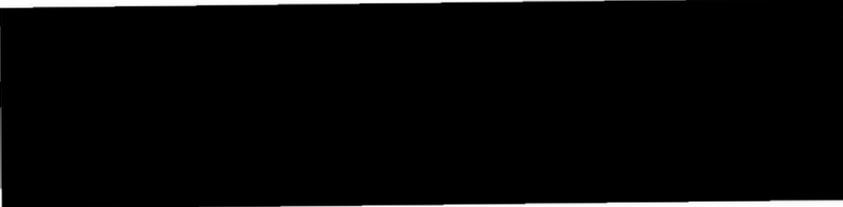
U.S. Department of Homeland Security
20 Massachusetts Ave. N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office:

ATHENS, GREECE

Date:

JUN 17 2008

IN RE: Applicant:



APPLICATION:

Application for Waiver of Grounds of Inadmissibility under section 212(a)(9)(B)(v) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B)(v)

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Officer in Charge, Athens, Greece and appealed to the Administrative Appeals Office (AAO). The appeal will be dismissed.

The record reflects that the applicant, a native of Germany and a citizen of Greece, admitted to the interviewing officer at the American Embassy in Athens, Greece in June 2005 that he had entered the United States in October 2001 as a nonimmigrant visitor for pleasure, with permission to remain for six months, yet had remained until March 2005, when he voluntarily departed the United States. The applicant accrued unlawful presence from April 2002 until March 2005. The applicant was thus found to be inadmissible to the United States under section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year. He seeks a waiver of inadmissibility pursuant to section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v), in order to be able to reside in the United States with his lawful permanent resident mother.

The officer in charge concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the Officer in Charge*, dated June 5, 2006.

In support of the appeal, the applicant submitted a completed Form I-290B, dated June 21, 2006. On said form, the applicant indicated that a brief and/or evidence would be submitted to the AAO within 30 days. No additional information was received by the AAO. As such, the record is considered complete, and has been reviewed and considered in rendering this decision.

Section 212(a)(9)(B) of the Act provides, in pertinent part:

Aliens Unlawfully Present.-

(i) In general. - Any alien (other than an alien lawfully admitted for permanent residence) who-

....

(II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States, is inadmissible.

(v) Waiver. - The Attorney General [now the Secretary of Homeland Security (Secretary)] has sole discretion to waive clause (i) in the case of an immigrant who is the spouse or 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 Attorney General (Secretary) that the refusal of admission to such immigrant alien

would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien...

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. 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.

The applicant asserts that his lawful permanent resident mother is suffering extreme hardship due to his inadmissibility. As the applicant's mother states,

I suffer from cancer...and also have problems with my legs. When I travel by plane or long distances I need to be moved by wheelchair.

When I have chemotherapy I can not go by myself and need my son with me to take care of me as after chemotherapy I cannot take care of myself for long periods of time.

My husband also has diabetes and this Thursday June 9th 2005 will undergo surgery for prostate cancer.

Thus, I need my son to be with me as I am helpless and can not take care of myself.

Please allow my son to come to live with me as he is the only person who can help me as my other son and his wife both work and have two children....

Letter from [REDACTED]

Although the applicant has provided copies of medical records with respect to his mother's medical condition, the AAO notes that most of the documents provided are over ten years old. The most recent letter submitted by the applicant's mother's physician, dated December 21, 2005, does not describe in detail the applicant's mother's current medical condition(s), the gravity of the situation, the short and long-term treatment plan, what type of assistance the applicant's mother needs from the applicant specifically and what hardships she will face due to the applicant's absence. The letter merely states that the applicant's mother "...requires monitoring...[and] is dependent on her family being able to support her..." *Letter from* [REDACTED] *Boston Medical Center*, dated December 21, 2005. The record indicates that the applicant's mother's husband, son, daughter-in-law and grandchildren reside with her; no documentation has been provided to establish that they are unable to assist her and that due to this inability, the applicant's mother is experiencing extreme hardship.

Moreover, it has not been established that the applicant is unable to obtain gainful employment in Greece, thereby assisting his mother financially should the need arise. Finally, it has not been established that any alternate arrangements for his mother's care, such as a medically trained caretaker, would cause extreme hardship to the applicant's mother. 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)).

Although the depth of concern and anxiety over the applicant's inadmissibility is neither doubted or minimized, the fact remains that Congress provided for a waiver of inadmissibility only under limited circumstances. In nearly every qualifying relationship, whether between husband and wife or parent and child, there is a deep level of affection and a certain amount of emotional and social interdependence. While, in common parlance, the prospect of separation or involuntary relocation nearly always results in considerable hardship to individuals and families, 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 and familial and emotional bonds exist. The current state of the law, viewed from a legislative, administrative, or judicial point of view, requires that the hardship be above and beyond the normal, expected hardship involved in such cases. U.S. court decisions have repeatedly held that the common results of removal are insufficient to prove extreme hardship. 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). "[O]nly in cases of great actual or prospective injury . . . will the bar be removed." *Matter of Ngai*, 19 I&N Dec. 245, 246 (BIA 1984).

The AAO recognizes that the applicant's mother will endure hardship as a result of separation from the applicant. However, her situation, if she remains in the United States, is typical to individuals separated as a result of removal and does not rise to the level of extreme hardship based on the record. The AAO concludes that based on the evidence provided, it has not established that the applicant's mother is suffering extreme hardship due to the applicant's absence.

The AAO notes that extreme hardship to a qualifying relative must also be established in the event that he or she relocates abroad based on the denial of the applicant's waiver request. In this case, the applicant has not asserted any reasons why his mother is unable to relocate to Greece, her home country.

As such, a review of the documentation in the record, when considered in its totality, reflects that the applicant has failed to show that his lawful permanent resident parent would suffer extreme hardship if he were not permitted to return to the United States, and moreover, the applicant has failed to show that his lawful permanent resident mother would suffer extreme hardship were she to relocate to Greece to reside with the applicant. The record demonstrates that the applicant's mother faces no greater hardship than the unfortunate, but expected, disruptions, inconveniences, and difficulties arising whenever a child is removed

from the United States or refused admission. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether the applicant merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(9)(B)(v) 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. The waiver application is denied.