

Information has been deleted to prevent disclosure of personal information of personal privacy

PUBLIC COPY

U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



U.S. Citizenship
and Immigration
Services



44

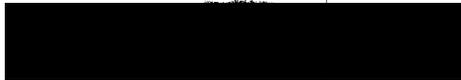
FILE:



Office: LONDON

Date:

IN RE:



JAN 06 2006

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

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, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Officer in Charge, London. The applicant appealed the matter to the Administrative Appeals Office (AAO), and the appeal was dismissed on November 9, 2005. In the decision, the AAO noted that the applicant indicated on Form I-290B that he would submit additional documentation to the AAO within 30 days of filing the appeal. The appeal was filed on February 23, 2005. However, as of November 9, 2005, the AAO had received no further documentation or correspondence from the applicant and the record was considered complete. The AAO subsequently learned that the applicant had forwarded additional documentation to support the appeal on March 8, 2005, yet the documentation was sent to the AAO's former address and the materials were not received. The AAO has now received the additional documents and will reopen the matter *sua sponte* in order to consider the new materials.

The additional materials include: a letter from Congressman Daniel Lipinski, dated March 8, 2005; a statement from the applicant; a statement from the applicant's fiancée; a brief note from a physician, dated February 15, 2005; documentation on the affects of stress on those afflicted with diabetes, and; statements from the applicant's fiancée's parents, sisters, and brother.

Upon review of the new documentation, the AAO again acknowledges that family separation is difficult. The statements from the applicant, the applicant's fiancée, and the applicant's fiancée's family members clearly express that they will endure significant emotional consequences as a result of the applicant's inadmissibility, whether the applicant's fiancée relocates abroad or remains in the United States. However, the new documentation does not establish that the applicant's fiancée will suffer unusual consequences that go beyond those commonly experienced by family members of those deemed excludable or inadmissible.

The applicant's fiancée indicated that she has been diagnosed with Type I diabetes. In the prior decision, the AAO observed that the applicant provided no documentation or medical records to show that his fiancée is a diabetic. The AAO now considers a brief note from a physician that provides that the applicant's fiancée is a diabetic. The note expresses the opinion that stressful situations can have significant health consequences for the applicant's fiancée. However, this single, brief document is insufficient to show the severity, type, or duration of the applicant's fiancée's illness, or to allow the AAO to accurately assess the likely health consequences to her should the waiver application be denied. While the applicant provides general information about the possible consequences of stress for diabetics, such documentation does not establish that his fiancée will experience negative health effects that rise to the level of extreme hardship. 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)). As noted in the prior decision, the applicant's fiancée, as a U.S. citizen, is free to remain in the United States should she determine that she will receive more favorable healthcare here.

Based on the foregoing, the instances of hardship that will be experienced by the applicant's fiancée should the applicant be prohibited from entering the United States, considered in aggregate, do not rise to the level of extreme hardship. 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)(9)(B) 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.