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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

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Date: SEP 19 2011 Office SAN FRANCISCO FILE:

IN RE: Applicant:

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:

**INSTRUCTIONS:**

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office Director, San Francisco, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record establishes that the applicant is a native and citizen of the Philippines who procured entry to the United States in November 2000 by presenting a fraudulent passport. The applicant was thus 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 entry to the United States by fraud or willful misrepresentation. The applicant does not contest the field office director's finding of inadmissibility. Rather, he seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States with his lawful permanent resident mother.

The field office director 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 Inadmissibility (Form I-601) accordingly. *Decision of the Field Office Director*, dated July 1, 2008.

In support of the appeal, previous counsel submits the following: a brief; an affidavit from the applicant; medical documentation pertaining to the applicant's mother; a duplicate copy of a previously submitted psychological evaluation of the applicant's mother; and financial documentation. In addition, in February 2011, the AAO received a new Form G-28, Notice of Entry of Appearance, indicting a change of counsel. The entire record was reviewed and considered in rendering this decision.

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 Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General (Secretary), 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 Attorney General (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...

A waiver of inadmissibility under section 212(i) of the Act is dependent on a showing that the bar to admission imposes extreme hardship on a qualifying relative, which includes the U.S. citizen or lawfully resident spouse or parent of the applicant. The applicant's lawful permanent resident mother is the only qualifying relative in this case. Hardship to the applicant can be considered only insofar as it results in hardship to a qualifying relative. If extreme hardship to a qualifying relative is established, the applicant is statutorily eligible for a waiver, and USCIS then assesses whether a favorable exercise of discretion is warranted. *See Matter of Mendez-Morales*, 21 I&N Dec. 296, 301 (BIA 1996).

Extreme hardship is "not a definable term of fixed and inflexible content or meaning," but "necessarily depends upon the facts and circumstances peculiar to each case." *Matter of Hwang*, 10 I&N Dec. 448, 451 (BIA 1964). In *Matter of Cervantes-Gonzalez*, the Board provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship to a qualifying relative. 22 I&N Dec. 560, 565 (BIA 1999). The 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. *Id.* The Board added that not all of the foregoing factors need be analyzed in any given case and emphasized that the list of factors was not exclusive. *Id.* at 566.

The Board has also held that the common or typical results of removal and inadmissibility do not constitute extreme hardship, and has listed certain individual hardship factors considered common rather than extreme. These factors include: economic disadvantage, loss of current employment, inability to maintain one's present standard of living, inability to pursue a chosen profession, separation from family members, severing community ties, cultural readjustment after living in the United States for many years, cultural adjustment of qualifying relatives who have never lived outside the United States, inferior economic and educational opportunities in the foreign country, or inferior medical facilities in the foreign country. *See generally Matter of Cervantes-Gonzalez*, 22 I&N Dec. at 568; *Matter of Pilch*, 21 I&N Dec. 627, 632-33 (BIA 1996); *Matter of Ige*, 20 I&N Dec. 880, 883 (BIA 1994); *Matter of Ngai*, 19 I&N Dec. 245, 246-47 (Comm'r 1984); *Matter of Kim*, 15 I&N Dec. 88, 89-90 (BIA 1974); *Matter of Shaughnessy*, 12 I&N Dec. 810, 813 (BIA 1968).

However, though hardships may not be extreme when considered abstractly or individually, the Board has made it clear that "[r]elevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists." *Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996) (quoting *Matter of Ige*, 20 I&N Dec. at 882). The adjudicator "must consider the entire range of factors concerning hardship in their totality and determine whether the combination of hardships takes the case beyond those hardships ordinarily associated with deportation." *Id.*

The actual hardship associated with an abstract hardship factor such as family separation, economic disadvantage, cultural readjustment, et cetera, differs in nature and severity depending on the unique circumstances of each case, as does the cumulative hardship a qualifying relative experiences as a result of aggregated individual hardships. *See, e.g., Matter of Bing Chih Kao and Mei Tsui Lin*, 23 I&N Dec. 45, 51 (BIA 2001) (distinguishing *Matter of Pilch* regarding hardship faced by qualifying relatives on the basis of variations in the length of residence in the United States and the ability to speak the language of the country to which they would relocate). For example, though family separation has been found to be a common result of inadmissibility or removal, separation from family living in the United States can also be the most important single hardship factor in considering hardship in the aggregate. *See Salcido-Salcido*, 138 F.3d at 1293 (quoting *Contreras-Buenfil v. INS*, 712 F.2d 401, 403 (9th Cir. 1983)); *but see Matter of Ngai*, 19 I&N Dec. at 247 (separation of spouse and children from applicant not extreme hardship due to conflicting evidence in the record and because applicant and spouse had been voluntarily separated from one another for 28 years). Therefore, we consider the totality of the circumstances in determining whether denial of admission would result in extreme hardship to a qualifying relative.

The applicant's lawful permanent resident mother contends that she will suffer emotional, physical and financial hardship were she to remain in the United States while the applicant relocates abroad due to his inadmissibility. In a declaration, the applicant's mother explains that she is very close to her son and can not imagine being separated from him on a long-term basis. She further explains that she has suffered from numerous health issues, including a ruptured Achilles tendon in 2004 that led to permanent restrictions, cataracts surgery in 2005, a gastric ulcer in 2006, a bunion in 2006, and depression, and she thus needs her son for assistance on a daily basis. She contends that she is unable to perform a lot of tasks of everyday living and the applicant is the one doing most of the chores and assisting her with her daily routine. Finally, the applicant's mother explains that although she works 30 hours each week and makes about \$1400 per month after taxes, she is unable to make ends meet and relies on the applicant to assist with the finances of the household. *Letter from* [REDACTED] dated June 6, 2008.

With respect to the emotional hardship referenced, a psychological evaluation has been provided from [REDACTED]. Although the input of any mental health professional is respected and valuable, the AAO notes that the submitted evaluation is based on a single, two hour interview between the applicant, his mother and the psychologist. The record fails to reflect an ongoing relationship between a mental health professional and the applicant's mother or a proposed treatment plan for the conditions diagnosed by [REDACTED]. As for the physical ailments referenced by the applicant's mother, no letter has been provided on appeal from the applicant's mother's treating physician outlining her current medical conditions, her physical limitations, if any, the short and long-term treatment plan and what specific hardships the applicant's mother will face were the applicant to relocate abroad due to his inadmissibility. Without more detailed information, the AAO is not in the position to reach conclusions about the severity of a physical or mental health condition or any treatment or assistance needed.

Finally, regarding the financial hardship referenced, the applicant has not provided documentation establishing the applicant's and his mother's current financial situation to support the assertion that without the applicant's financial contributions, the applicant's mother will suffer financial hardship. The AAO notes that the applicant's mother, despite the medical conditions referenced, is gainfully employed at [REDACTED] as a Fragrance Sales Associate and although she contends that her son is the one paying most of the bills, no documentation has been provided establishing his specific financial contributions to the household. Moreover, the AAO notes that copies of select bills and a delinquent account notice from May 2007, without context regarding the family's financial picture as a whole, do not establish financial hardship. In addition, counsel has failed to establish that the applicant is unable to obtain gainful employment in the Philippines that will permit him to assist his mother financially in the United States. Finally, no documentation has been provided establishing that the applicant's mother would be unable to return to the Philippines, her native country, to visit the applicant. 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)).

The AAO recognizes that the applicant's lawful permanent resident mother will endure some hardship as a result of long-term 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.

With respect to relocating abroad to reside with the applicant due to her inadmissibility, previous counsel contends that the applicant's mother would suffer hardship. He explains that the applicant's mother has been residing in the United States for more than a decade and has no ties abroad. In addition, previous counsel asserts that the applicant's family in the Philippines is poor, and thus the applicant's mother would suffer from a substandard quality of life. Finally, previous counsel contends that the applicant's mother would be unemployable and uninsurable and she would be vulnerable to abuse because disabled people are not protected by the laws in the Philippines. *Brief in Support of Appeal*, dated August 21, 2008. The applicant further contends that were his mother to relocate abroad, she would be subjected to a life of physical agony, mental suffering and quite possibly, premature death and there would be minimal to zero chance that he would make sufficient enough living to afford to support himself, much less his mother. *Declaration of [REDACTED]*, dated August 21, 2008. The record contains no documentation to support these assertions, and, as noted above, assertions without supporting documentation do not suffice to establish extreme hardship.

The record, reviewed in its entirety, does not support a finding that the applicant's mother will face extreme hardship if the applicant is unable to reside in the United States. Rather, the record demonstrates that she will face no greater hardship than the unfortunate, but expected, disruptions, inconveniences, and difficulties arising whenever a son or daughter is removed from the United States or is refused admission. There is no documentation establishing that the applicant's mother's hardships are any different from other families separated as a result of immigration violations.

Although the AAO is not insensitive to the applicant's mother's situation, the record does not establish that the hardships she would face rise to the level of "extreme" as contemplated by statute and case law. 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, 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 application is denied.