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

45

[REDACTED]

DATE: **FEB 17 2012** OFFICE: LOS ANGELES, CA FILE: [REDACTED]

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 PETITIONER:  
[REDACTED]

**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,

A handwritten signature in cursive script, appearing to read "Perry Rhew".

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Form I-601, Application for Waiver of Inadmissibility (Form I-601) was denied by the District Director, Los Angeles, California on December 14, 2006. An appeal of the denial was dismissed by the Administrative Appeals Office (AAO) on September 21, 2009. The matter is now before the AAO on a motion to reopen and reconsider. The motion to reopen will be granted but the previous AAO decision and order, dated September 21, 2009, will be affirmed.

The applicant is a native and citizen of the Philippines who was found to be inadmissible 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 procuring admission into the United States by fraud or willfully misrepresenting a material fact. The applicant is married to a U.S. citizen, and she is the beneficiary of an approved Form I-130, Petition for Alien Relative. The applicant seeks a waiver of her inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), so that she may live in the United States with her spouse.

In a decision dated December 14, 2006, the director determined the applicant had failed to establish that her U.S. citizen spouse would experience extreme hardship if the applicant were denied admission into the United States. The Form I-601 was denied accordingly. On appeal, counsel for the applicant asserted that submitted evidence established the applicant's spouse would suffer extreme emotional, physical and financial hardship if the applicant's waiver of inadmissibility application were not granted. In a decision dated September 21, 2009, the AAO found that the applicant had established her husband would experience extreme hardship if he remained separated from the applicant in the United States. The AAO found, however, that the applicant had failed to demonstrate that her husband would suffer extreme hardship if he moved with the applicant to the Philippines. The appeal was dismissed accordingly.

In the present motion to reopen and reconsider, counsel asserts that the AAO disregarded several hardship factors in its analysis, and that the AAO incorrectly found the applicant's husband would not suffer extreme hardship if he relocated to the Philippines to be with the applicant. Counsel indicates that new evidence establishes further that the applicant's husband's mother has died, and that the applicant's husband would experience additional emotional and physical hardship if he is separated from a close friend and patient in the United States.

The regulations state in pertinent part at 8 C.F.R. § 103.5(a):

(a) Motions to reopen or reconsider

....

(2) Requirements for motion to reopen. A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence.

(3) Requirements for motion to reconsider. A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

(4) Processing motions in proceedings before the Service. A motion that does not meet applicable requirements shall be dismissed.

Counsel's motion to reconsider asserts that pursuant to *Matter of O-J-O*, 21 I. & N. Dec. 381 (BIA 1996) and *Matter of Anderson*, 16 I. & N. Dec. 596 (BIA 1978), all hardship factors must be considered in their totality when assessing extreme hardship in a Form I-601 application. Counsel asserts that the AAO disregarded several hardship factors in its hardship analysis, and that the AAO incorrectly found that the applicant's husband would not suffer extreme hardship if he relocated to the Philippines to be with the applicant. Specifically, counsel asserts that the AAO disregarded country-conditions evidence reflecting that one-third of the population in the Philippines is unemployed and safety warnings to U.S. citizens in the Philippines. Counsel asserts that the AAO also disregarded psychological evaluation information that the applicant fears relapsing into alcoholism, is experiencing poor appetite, weight loss and physical ailments.

The AAO has reviewed its September 21, 2009 decision and finds that the decision provides a detailed discussion of the information and findings made in the psychological evaluations submitted on appeal. Indeed, the decision reflects that the psychological evaluation supports the AAO's previous determination that the applicant's husband would experience extreme hardship if he remained in the United States, separated from the applicant. The previous AAO decision also discusses conditions and hardship factors in the Philippines by noting that the applicant's husband is originally from the Philippines and familiar with the language and culture of that country, by discussing the applicant's husband's profession as a caregiver, and by noting that the evidence fails to establish he would be unable to find employment in his profession in the Philippines. The decision discusses further that under *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, and the totality of the evidence in the record fails to demonstrate the applicant would experience other hardship in the Philippines that was beyond that normally experienced upon removal or inadmissibility.

The AAO finds that counsel failed to demonstrate that the previous AAO decision was based on an incorrect application of law or Service policy, or that the AAO misapplied legal precedent by disregarding hardship factors in its analysis, or failing to consider the hardship factors in the aggregate. The motion to reconsider the AAO's September 21, 2009 decision is therefore dismissed.

Counsel has, however, met the requirements for a motion to reopen. Counsel submits new evidence reflecting that the applicant's husband's mother died on September 10, 2008, and claiming that although the applicant's husband is no longer caring for his mother, he has developed a close friendship with one of his elderly patients (██████████), and would experience emotional hardship if he were separated from ██████████. Specifically, the applicant's husband states in a new affidavit that he met ██████████ in 1998, at the rehabilitation facility where his mother resided. He states that he visits ██████████ at least twice a week, that he provides care to ██████████, and that he has developed a father-son type of relationship with ██████████. The applicant's husband states that ██████████ is dependent upon him and has no family members, and he states that he is concerned about how ██████████ will manage if he moves to the Philippines. ██████████ states in an affidavit that the applicant's husband has been employed as his caregiver since 1999, that his bills are sent to the applicant's husband's address, and that the applicant's husband's name is on all of his accounts. ██████████ indicates he would feel abandoned and alone if the applicant moved away.

The applicant's husband also reiterates that he continues to experience migraine headaches due to his depression, and that he has been prescribed medication for the headaches.

The new evidence fails to establish that the applicant's husband would suffer extreme hardship if he relocated to the Philippines to be with the applicant. The AAO notes that the applicant's patient and friend is not a qualifying family member for section 212(i) of the Act waiver purposes. Hardship to ██████████ may therefore not be considered. It is further noted that, although the assertions made by counsel, the applicant's husband and ██████████ are relevant and have been considered, little weight can be afforded them in the absence of supporting evidence. *See Matter of Kwan*, 14 I&N Dec. 175 (BIA 1972) ("Information in an affidavit should not be disregarded simply because it appears to be hearsay; in administrative proceedings, that fact merely affects the weight to be afforded it."). Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *See 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)).

In the present matter, the affidavit evidence submitted on motion is uncorroborated and fails to demonstrate that separation from, or hardship to ██████████ would cause the applicant's husband to experience emotional or physical hardship beyond that normally associated with removal or inadmissibility.

The AAO notes that a review of 2012 Department of State country-conditions information reflects the general possibility that U.S. citizens and other travelers to the Philippines may encounter indiscriminate terrorist threats anywhere in the country. The reports emphasize, however, that most terrorist-related incidents have occurred on the ██████████ and in the ██████████. *See* [http://travel.state.gov/travel/cis\\_pa\\_tw/cis/cis\\_999.html](http://travel.state.gov/travel/cis_pa_tw/cis/cis_999.html). The evidence in the record contains no indication that the applicant or her husband are from the ██████████ or the ██████████, and the generalized language contained in the Department of State country-

conditions information fails, in and of itself, to establish that the applicant's husband would face a specific threat or risk if he relocated to Manila or any other part of the Philippines.

Upon review of the evidence, the AAO finds that the applicant has failed to establish that her husband would suffer extreme hardship if he relocated to the Philippines. The motion to reopen will therefore be dismissed, and the previous AAO order, dated September 21, 2009, will be affirmed.

**ORDER:** The motion to reopen and reconsider is dismissed. The order dated September 21, 2009, dismissing the appeal, is affirmed.