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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**



*H5*

DATE: Office: LOS ANGELES, CA FILE:

IN RE: **FEB 23 2012** 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, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of the Philippines 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 seeking to procure admission (adjustment of status) to the United States by fraud or willful misrepresentation of a material fact. The applicant is married to a U.S. citizen and has three lawful permanent resident children. She seeks a waiver of inadmissibility in order to reside in the United States with her family.

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 29, 2009.

On appeal, counsel asserts that the applicant signed blank immigration forms; she did not have complete knowledge as to what form, application or petition was prepared for her by her acquaintance; she never signed a blank California marriage certificate for a nonexistent spouse; she submitted documentation reflecting that there was never a marriage between her and the nonexistent person; she was not aware that the person assisting her with her immigration forms potentially filed fraudulent documents; she was a victim, not a culprit; and signing documents does not prima facie establish that one fully understands and has knowledge of the contents thereof. *Form I-290B*, received August 30, 2009.

The record includes, but is not limited to, the applicant's Form I-290B, adoption records and statements from the applicant and her spouse. The entire record was reviewed and considered in rendering a decision on the appeal.

The record reflects that the applicant filed Form I-485, Application to Register Permanent Resident of Adjust Status, on January 16, 2004 based on marriage to a U.S. citizen spouse named [REDACTED]. Her Form G-325A, Biographic Information, also lists [REDACTED] as her spouse. The record includes a Form I-130, Petition for Alien Relative, with [REDACTED] listed as the petitioner and the applicant as the beneficiary, and a Form I-864, Affidavit of Support Under Section 213A of the Act, listing [REDACTED] as the sponsor of the applicant. The record includes a California License and Certificate of Marriage between the applicant and [REDACTED], with the applicant's signature on it. The applicant states that she was never married to someone named [REDACTED] and the record includes a record from Los Angeles County reflecting that the applicant was not married to him, therefore the marriage certificate appears to be fraudulent.

As mentioned, the applicant claims that she only signed blank immigration forms; an acquaintance prepared her forms; and she had no idea that the immigration forms were submitted as part of a fraudulent scheme. However, Part 5 of the Form I-485, Signature of Person Preparing Form If Other Than Above, is blank. The applicant signed Part 4 of the Form I-485, which includes a certification under penalty of perjury that the contents of the application and submitted evidence are true and

correct. The applicant filed the above forms based on a non-existent spouse and a fraudulent marriage certificate. As such, the AAO finds that the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act for seeking to procure admission (adjustment of status) to the United States by fraud or willful misrepresentation of a material fact.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

- (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 that:

- (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 alien 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. Hardship to the applicant can be considered only insofar as it results in hardship to a qualifying relative, in this case the applicant's spouse. 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*, 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 spouse states that he has never been to the Philippines; there are economic and social conditions which would impact him; he would have to sell his properties and resign from his stable employment; their three children who recently immigrated to the United States would have to relocate; and suitable medical care is not available in the Philippines. The record includes an employment letter for the applicant's spouse and evidence that he transferred property to the applicant.

The record reflects that the applicant would experience some difficulty in the Philippines, but it does not include sufficient evidence of financial, medical, emotional or other types of hardship, which in

their totality, establish that the applicant's spouse would experience extreme hardship upon relocating to the Philippines.

The applicant's spouse states that he cannot withstand a day without the applicant. The record does not include any other evidence of hardship should the applicant's spouse remain in the United States without the applicant. The record does not include sufficient evidence of financial, medical, emotional or other types of hardship, which in their totality, establish that the applicant's spouse would experience extreme hardship upon remaining in the United States.

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(i) 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.