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



U.S. Citizenship  
and Immigration  
Services



7/5

DATE: JUN 20 2012

Office: LOS ANGELES, CA

FILE: 

IN RE: 

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,



Perry Rhoades  
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 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 admission to the United States through fraud or misrepresentation. The applicant is the spouse of a U.S. citizen and is the beneficiary of an approved Petition for Alien Relative. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with his U.S. citizen spouse and children.

The director concluded that the applicant had failed to establish that the bar to his admission would impose extreme hardship on a qualifying relative and denied the application accordingly. *See Decision of Field Office Director*, dated February 2, 2010.

On appeal, counsel asserts that the director “erred in drawing conclusions that were based upon misinterpretations and misapplications” of the facts and the law. Counsel further asserts that the director failed to properly consider the evidence of hardship and its cumulative effect on the qualifying relative.

The evidence of record includes, but is not limited to: counsel’s brief; statements from the applicant and his spouse; a psychological report and medical documents for the applicant’s spouse; financial documents; character letters for the applicant and his spouse; and identification and relationship documents. The entire record was reviewed and all relevant evidence considered in reaching a decision on the appeal.

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 [Secretary] may, in the discretion of the [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 [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.

Section 212(i) of the Act provides that a waiver of the bar to admission is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member. Once extreme hardship is established, it is but one favorable factor to be considered in the determination of whether the Secretary should exercise discretion. *See Matter of Mendez*, 21 I&N Dec. 296 (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.

In the present case, the record indicates that on August 8, 1990, the applicant procured admission to the United States by presenting a fraudulent passport in the name of [REDACTED]. The applicant is therefore inadmissible under section 212(a)(6)(C)(i) of the Act for having procured admission to the United States through fraud or misrepresentation. The applicant does not contest his inadmissibility.

The applicant's qualifying relative is his spouse, who is a U.S. citizen. The record contains references to hardship the applicant's children would experience if the waiver application were denied. It is noted that Congress did not include hardship to an alien's children as a factor to be considered in assessing extreme hardship. In the present case, the applicant's spouse is the only qualifying relative for the waiver under section 212(i) of the Act, and hardship to the applicant's children will not be separately considered, except as it may affect the applicant's spouse.

The AAO now turns to the question of whether the applicant in the present case has established that his qualifying relative would experience extreme hardship as a result of his inadmissibility.

The applicant's spouse states that the applicant's "immigration problem" has made her "sad and depressed," "anxious and irritable," and she is afraid that she "might break down." She states the feeling of "helplessness is almost driving [her] to despair." Counseling has helped her "take a

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<sup>1</sup> This entry date differs from the one on the applicant's Form I-589, Request for Asylum in the United States, in which he indicates that he last entered the United States without inspection at San Ysidro on August 15, 1989. On the same 1991 application, the applicant states he attended school in the Philippines between January 1990 and March 1990. The applicant does not refer to a 1989 entry in his subsequent applications. Therefore, the AAO considers his 1990 entry as the applicant's entry date.

positive outlook and concrete steps to minimize the stress and anxiety” she is experiencing. A 2007 psychological evaluation of the applicant’s spouse by a clinical psychologist indicates that she was experiencing “intense psychological distress combined with high levels of anxiety and depression.” The psychologist recommended therapy for the applicant’s spouse “to create a stable and supportive environment.”

The applicant’s spouse states that relocating to the Philippines would cause her extreme hardship because she would need a permit to live there and she may not be able to afford its immigration fees. Due to economic and political conditions and the high crime rate in the Philippines, she fears relocating there. The applicant’s spouse is concerned about her and their sons’ safety if they relocate to the Philippines. Her parents and her 12 siblings live in the United States, she has no immediate relatives in the Philippines, and she would be “completely displaced and have difficulty adjusting” were she to relocate. She states that their two U.S. citizen children would “not have the same quality of life” if they relocate.

The applicant’s spouse states that she has diabetes, which sometimes affects her vision. Her employer’s medical insurance covers the treatment and medications. A 2003 statement from the applicant’s spouse’s treating physician indicates that she has diabetes mellitus and “is working to control her blood sugar.” She is concerned that if she relocates, she would not be able to afford medical care and that medical facilities in the Philippines may be inadequate.

The applicant’s spouse also expresses financial concerns. She is a registered nurse at two hospitals, working at one full-time and at the other part-time. In 2007, her hourly rate was \$31.75 at her full-time position. The applicant’s spouse’s W-2 forms reflect \$96,677 earnings in 2006. The applicant and his spouse purchased their home and two investment properties in California. The applicant’s spouse states that her \$6,000 monthly income is “just enough” to pay their obligations, which include \$3,200 in mortgage payments, and personal loan and credit card debts totaling \$55,000. Their monthly household bills and expenses are approximately \$ 1,990. She states that the applicant is not authorized to work and she must work six to seven days a week to compensate for this loss of income. She states that if she relocates to the Philippines, she would be “jobless” and if she is able to work, she would receive an entry-level salary of between \$450 and \$600 monthly. The applicant’s spouse also states that the applicant’s “prospect of finding a job [in the Philippines] is almost nil,” and if he finds work, his salary would be insufficient to support himself. She will not be able to support two households or visit him. The applicant’s spouse states that the separation would be devastating for both her and the applicant.

The AAO concludes that the applicant has failed to demonstrate extreme hardship to his spouse if they were to separate. Although the applicant’s spouse claims that she would be unable to support her family without the applicant’s income, the record fails to demonstrate the applicant’s financial contribution when he was employed. The applicant did not provide current financial evidence with the appeal; the record, as a result, lacks evidence demonstrating the family’s

current income and expenses. Furthermore, the record does not demonstrate the income generated by their investment properties. The applicant's spouse lists her monthly income and their household expenses without providing documentary evidence to substantiate her claims. The latest tax return and W-2 forms in the record concern her income in 2006, and one employment letter reflects the applicant's spouse's hourly salary in 2007. Without current financial information, the AAO is unable to determine whether the applicant's spouse would experience extreme hardship if the applicant and she were to separate. The assertions of the applicant's spouse are relevant evidence and have been considered. However, absent supporting documentation, these assertions are insufficient proof of hardship. *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 generally 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)).

Regarding his spouse's medical hardship, the applicant provides medical evidence from 2003 and does not demonstrate that she currently has a condition that requires his assistance. The applicant failed to submit medical evidence corroborating his spouse's claim that she experiences night-blindness. Similarly, the applicant submitted no recent psychological evidence demonstrating his spouse continues to experience depression or requires medical or therapeutic intervention. The AAO acknowledges that the applicant and his spouse have a loving relationship, and nothing in this decision should be interpreted as suggesting otherwise. However, the AAO notes that the common results of deportation or exclusion are insufficient to prove extreme hardship. *See Hassan v. INS*, 927 F.2d 465 (9th Cir. 1991). Moreover, the record does not demonstrate that the hardship that may be experienced by the children would result in extreme hardship for the applicant's spouse, the only qualifying relative in this case. The record in this case does not establish that the applicant's spouse would experience extreme hardship if the applicant and his spouse were to separate.

The AAO finds that the applicant has also failed to demonstrate that his spouse, a native of the Philippines, would experience extreme hardship if she relocates to the Philippines to be with him. The record does not establish that either the applicant or his spouse would be unable to find gainful employment in the Philippines. With respect to the applicant's spouse's concerns regarding her family and community ties in the United States, the AAO recognizes that separation from family and friends would be difficult for the applicant's spouse; however, we also note that in *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), the Board held that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship.

The AAO also notes that the U.S. Department of State issued a travel warning for the Philippines, last updated on January 5, 2012, which cautions the U.S. citizens against terrorist

activities, particularly in Mindanao and the Sulu Archipelago provinces. Although this information is of concern, it does not, in and of itself, establish extreme hardship, and the record contains no other evidence to demonstrate that the applicant's spouse would face danger in the Philippines should they relocate to the applicant's hometown, General Tinio in the Nueva Ecija province.

In this case, the record does not contain sufficient evidence to show that the hardships faced by the qualifying relative, considered in the aggregate, rise beyond the common results of removal or inadmissibility to the level of extreme hardship. Accordingly, the applicant has not established eligibility for a waiver of inadmissibility under section 212(i) of the Act. Because the applicant is 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(i) 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.