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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

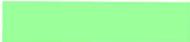


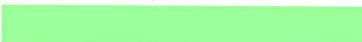
U.S. Citizenship
and Immigration
Services



DATE: **MAR 26 2013**

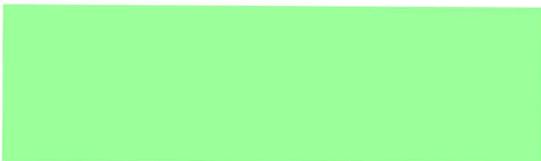
Office: PHILADELPHIA, PA

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,

A handwritten signature in black ink that reads "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Philadelphia, Pennsylvania. The matter 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 procuring admission into the United States by fraud or misrepresentation. 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 her U.S. citizen husband.

The Field Office Director concluded that the applicant failed to establish that a bar to her admission to the United States would result in extreme hardship to a qualifying relative and denied the application accordingly. *See Decision of the Field Office Director*, dated May 10, 2012.

The applicant's attorney asserts that the applicant qualifies for a waiver and provides supplemental evidence to demonstrate the qualifying spouse's "serious medical issues which necessitate medical attention and care in the United States." *See Form I-290B, Notice of Appeal or Motion* (Form I-290B), dated June 7, 2012.

The record contains the following documentation: the original Application for Waiver of Grounds of Inadmissibility (Form I-601); a Form I-290B; an appeal brief and letters from the applicant's attorney; affidavits from the applicant and qualifying spouse; identification and relationship documents for the applicant and qualifying spouse; a letter from the qualifying spouse's prior employer and a copy of his current employee identification; medical and financial documentation regarding the qualifying spouse; country-conditions documents regarding the Philippines; photographs; an approved Petition for Alien Relative (Form I-130) and an Application to Register Permanent Residence or Adjust Status (Form I-485). The entire record was reviewed and considered in rendering 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:

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 or, in the case of an alien granted classification under clause (iii) or (iv) of section 204 (a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B), the alien demonstrates extreme hardship to the alien or the alien's United States citizen, lawful permanent resident, or qualified alien parent or child.

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 spouse is the only qualifying relative in this case. 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 record indicates that the applicant obtained an A-2 non-immigrant visa by stating that she was to be employed as a receptionist at the [REDACTED] in Washington, DC, and she submitted fraudulent employment documents with her non-immigrant visa application. She was admitted into the United States with this visa on March 9, 2007. At her adjustment interview on September 7, 2011, the applicant admitted that she did not intend to engage in such employment. Therefore, as a result of the applicant's misrepresentation, she is inadmissible to the United States under section 212(a)(6)(C)(i) of the Act. Counsel does not contest the applicant's inadmissibility.

The AAO finds that the applicant has failed to establish that her qualifying relative will suffer extreme hardship as a consequence of being separated from her in the event she is removed to the Philippines. The qualifying spouse asserts that he would suffer emotional hardship if they were separated. He indicates that she is the "best thing that has ever come into [his] life" and has brought him "true love, kindness, caring, and a future." He also states that he cannot "imagine going through the rest of [his] life" without her. Although the qualifying spouse may likely suffer emotional hardships upon separation, the record does not sufficiently explain how the applicant's absence would affect him and does not demonstrate how the hardship he may experience is beyond the experiences of other similarly separated families. The record does not contain evidence of other types of hardship that the applicant's spouse may experience if he did not accompany the applicant to the Philippines.

The applicant must also establish that her qualifying spouse would suffer extreme hardship were he to relocate to the Philippines to be with her. With respect to this criterion, the qualifying spouse contends that he will suffer financial hardship if he had to relocate because "jobs are scarce and hard to come by." The applicant's spouse also indicates that he would have to leave their home, his job and his family in the United States. Documentation confirms that the applicant's spouse is employed in the United States. However, while the record provides information regarding the qualifying spouse's income, it lacks sufficient evidence regarding his current

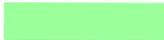
financial situation, such as his savings and expenses, to demonstrate whether he would suffer financial hardship if he relocated to the Philippines. Further, although the applicant's spouse states that jobs are scarce in the Philippines and the applicant states that there are no jobs in the Philippines, the record does not specifically support such assertions through independent documentary evidence. The limited country-conditions materials in the record do not provide relevant information about the economic situation in the Philippines and its potential impact on the applicant's spouse.

The applicant's spouse also asserts that he suffers from high blood pressure and that he takes medication for this condition. He expresses his concerns regarding the availability of his medications in the Philippines. On appeal, the applicant's attorney submits copies of the applicant's spouse's medical records, including hand-written progress notes containing medical terminology and abbreviations that are not easily understood, laboratory results, letters and prescriptions. Many of the documents submitted were prepared for review by medical professionals or are otherwise illegible or indiscernible and do not contain a clear explanation of the current medical condition of the applicant's husband. While it appears that the applicant's spouse has been diagnosed with hypertension, sinusitis, reflux, chronic laryngitis and sleep apnea, absent an explanation in plain language from the treating physician of the exact nature and severity of any condition and a description of any treatment or family assistance needed, the AAO is not in the position to reach conclusions concerning the severity of a medical condition or the treatment needed. Further, the record does not contain any documentation to support assertions made by the qualifying spouse that he may not be able to obtain his medications in the Philippines or to demonstrate that he would be unable to find suitable medical care in the Philippines, as posited by the applicant's attorney. Although assertions are relevant and have been taken into consideration, little weight can be afforded them in the absence of supporting evidence. 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 applicant's spouse also states that he is a U.S. citizen and that he has family in the United States. The record establishes that he was born in the United States and that his entire immediate family lives in the United States. However, the record fails to address the nature and extent of his ties to his family in the United States or whether the applicant, who has four children living in the Philippines, would be able to provide a familial support system there.

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. The AAO therefore finds that the applicant has failed to establish extreme hardship to her U.S. citizen spouse as required under section 212(i) of the Act. As the applicant has not established extreme hardship to a qualifying family member, no purpose would be served in determining whether the applicant 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

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U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.