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

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**U.S. Citizenship  
and Immigration  
Services**

H3

FILE:

Office: MANILA

Date:

**JUN 25 2009**

IN RE:

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(g) of the  
Immigration and Nationality Act (INA), 8 U.S.C. § 1182(g)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. 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 \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Officer in Charge, Manila, Philippines. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The applicant is a native and citizen of the Philippines who was found inadmissible to the United States under section 212(a)(1)(A)(iii)(I) of the Act, 8 U.S.C. 1182(a)(1)(A)(iii)(I), as an alien classified as having a physical/mental disorder (schizophrenia) with associated behavior that may pose, or has posed, a threat to the property, safety or welfare of the alien or others. The applicant seeks a waiver of inadmissibility in order to enter the United States and adjust her status to permanent resident.

The officer in charge found that the applicant failed to establish that she has been sufficiently rehabilitated and denied the Form I-601, Application for Waiver of Ground of Inadmissibility. *Decision of the Officer in Charge*, dated August 31, 2005.

On appeal, the applicant contends that she has been cured of her Class A medical condition. *Statement from the Applicant on Form I-290B*, dated September 27, 2005.

The record contains a statement on Form I-290B; a note from the applicant's psychiatrist; a statement from the applicant; a copy of a prescription from the applicant's psychiatrist, including receipts to show the purchase of the medication; a Form CDC 4,422-1 from the U.S. Department of Health and Human Services (HHS), Public Health Service; a psychological evaluation of the applicant conducted by HHS, and; a psychiatric report for the applicant from a psychiatrist from St. Luke's Medical Center. The entire record was reviewed and considered in rendering a decision on the appeal.

Section 212(a) states, in pertinent part:

(a) Classes of Aliens Ineligible for Visas or Admission.—Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(1) Health-related grounds.—

(A) In general.—Any alien-

...

(iii) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services in consultation with the Attorney General [now Secretary of Homeland Security])—

(I) to have a physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others

. . . is inadmissible.

(B) Waiver authorized.—For provision authorizing waiver of certain clauses of subparagraph (A), see subsection (g).

Section 212(g) reads, in pertinent part:

(g) The Attorney General may waive the application of—

(3) subsection (a)(1)(A)(iii) in the case of any alien, in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the [Secretary], in the discretion of the [Secretary] after consultation with the Secretary of Health and Human Services, may by regulation prescribe.

8 U.S.C. § 1182(g). Regulations at 8 C.F.R. § 212.7(b) govern aliens with certain mental conditions who are eligible for immigrant visas but require the approval of waivers of grounds of inadmissibility. The regulations require that the applicant submit the waiver application and a statement to the appropriate USCIS office indicating that arrangements have been made to provide the applicant's complete medical history, including details of any hospitalization or institutional care or treatment for any physical or mental condition; the applicant's current physical and mental condition, including prognosis and life expectancy; and a psychiatric examination. 8 C.F.R. § 212.7(b)(4). "For an alien with a past history of mental illness, the medical report shall also contain available information on which the U.S. Public Health Service can base a finding as to whether the alien has been free of such mental illness for a period of time sufficient in the light of such history to demonstrate recovery." *Id.* The medical report must then be forwarded to the U.S. Public Health Service for review. *Id.* These regulations further provide:

(ii) *Submission of statement.* Upon being notified that the medical report has been reviewed by the U.S. Public Health Service and determined to be acceptable, the alien or the alien's sponsoring family member shall submit a statement to the consular or [USCIS] office. The statement must be from a clinic, hospital, institution, specialized facility, or specialist in the United States approved by the U.S. Public Health Service. The alien or alien's sponsor may be referred to the mental retardation or mental health agency of the state of proposed residence for guidance in selecting a post-arrival medical examining authority who will complete the evaluation and provide an evaluation report to the Centers for Disease Control.

The statement must specify the name and address of the specialized facility, or specialist, and must affirm that:

(A) The specified facility or specialist agrees to evaluate the alien's mental status and prepare a complete report of the findings of such evaluation.

(B) The alien, the alien's sponsoring family member, or another responsible person has made complete financial arrangements for payment of any charges that may be incurred after arrival for studies, care, training and service;

(C) The Director, Division of Quarantine, Center for Prevention Services, Centers for Disease Control, Atlanta, GA. 30333 shall be furnished:

(1) The report evaluating the alien's mental status within 30 days after the alien's arrival; and

(2) Prompt notification of the alien's failure to report to the facility or specialist within 30 days after being notified by the U.S. Public Health Service that the alien has arrived in the United States.

(D) The alien shall be in an outpatient, inpatient, study, or other specified status as determined by the responsible local physician or specialist during the initial evaluation.

Upon review, the record reflects that the applicant has been diagnosed with Schizophrenia, paranoid type. *Report from* [REDACTED], dated October 28 and November 16, 2004. She was confined to a private mental institution for one month in 1993, during which she was given chlorpromazine (thorazine) and haloperidol and biperiden HCL. *Id.* at 1. She did not follow-up with her doctor after she was discharged as she indicated she felt better. *Id.* She subsequently reported auditory hallucinations of a nurse speaking to her. *Id.* [REDACTED] stated that the applicant was poorly compliant with her medication until she was readmitted to another hospital in September 1998. *Id.* at 2. After her release, she was subsequently hospitalized again for four months and given chlorpromazine, paroxetine (seroxat) and biperiden HCL. *Id.* She did not follow-up with her psychiatrist upon discharge. *Id.* The applicant was confined again in February 2004 after she slashed her own wrist. *Id.* She was given amisulpride (solian) and biperiden HCL. *Id.* The applicant did not follow-up with her treatment despite the continued presence of auditory hallucinations, delusions of persecution, and difficulty sleeping. *Id.* [REDACTED] stated that the applicant has poor insight about her illness. *Id.*

In a psychological evaluation conducted by HHS, ██████████ noted that the applicant needs ongoing psychiatric treatment for her own safety. *Report from HHS*, dated March 18, 2005.

The record of proceeding reflects that the U.S. Public Health Service (PHS) received the required medical documentation regarding the applicant's present condition. *Form CDC 4,422-1, Part I, Executed by ██████████, Director, Division of Global Migration and Quarantine, National Center for Infectious Diseases*, dated March 18, 2005. The applicant then obtained the required statement from a PHS-approved facility, as per 8 C.F.R. § 212.7(b)(4)(ii). *Form CDC 4,422-1, Part II, Executed by ██████████* dated June 13, 2005. The applicant's brother properly completed Part III of Form CDC 4,422-1, attesting that necessary arrangements for further examination of the applicant will be made upon her entry to the United States. On June 21, 2005, a PHS reviewing official approved the applicant's Form CDC 4,422-1, thus certifying PHS's opinion that appropriate follow-up care will be provided upon the applicant's entry to the United States, and that PHS has no objection to her entry.

The applicant has properly completed the documentary requirements relating to Form CDC 4,422-1, and she is eligible for consideration for a waiver under section 212(a)(1)(B) of the Act.

On appeal, the applicant states that she is no longer sick, as she has been cured. *Statement from the Applicant in Form I-290B*, dated September 27, 2005. She explains that she no longer experiences auditory hallucinations, and that she only takes vitamins. *Id.* at 1.

The applicant submits a note from a psychiatrist which states that “[a]ssessment at this point shows that [the applicant] is in remission but she will have to be on antipsychotic medication for [a] prolonged period, and should have regular follow up with her psychiatrist.” *Note from Psychiatrist*, dated October 3, 2005.

Upon review, the applicant has not provided sufficient documentation to show that she warrants a favorable exercise of discretion in the present matter. Of primary concern is the applicant's history of lack of participation in recommended treatment, and her reported lack of insight into her illness. The applicant provided a note from a psychiatrist that states that she will have to be on antipsychotic medication for a prolonged period. However, on Form I-290B the applicant stated that she is cured and that she takes only vitamins. Thus, the applicant indicates that she is not presently taking antipsychotic medication, and it appears that she is not complying with prescribed treatment. As the applicant is not participating in care in the Philippines, and she has a history of noncompliance with treatment, the AAO cannot conclude that the applicant will engage in treatment as presented on Form CDC 4,422-1. As the applicant's illness has resulted in a violent episode in the past, the AAO is unable to approve the present waiver application as a matter of discretion.

In proceedings under section 212(a)(1)(B) 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.