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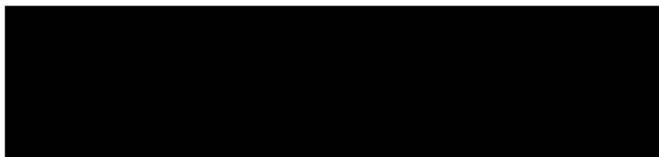
U.S. Department of Homeland Security  
20 Mass. Ave., N.W. Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
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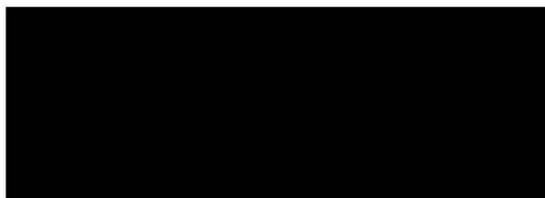


FILE: [Redacted] Office: PHOENIX, AZ Date: **DEC 26 2006**

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 APPLICANT:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, Phoenix, AZ, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Mexico who was found to be inadmissible to the United States (U.S.) 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 into the United States by fraud or willful misrepresentation on September 5, 1993. The applicant is married to a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The district director concluded that a review of the documentation when considered in its totality, failed to show that the applicant's spouse would suffer extreme hardship. The application was denied accordingly. *Decision of the District Director*, dated February 23, 2005.

On appeal, counsel asserts that the record indicates that the applicant's spouse will suffer extreme hardship if the applicant is removed from the United States. He states that the applicant's spouse has serious health problems, she does not work and the applicant is the sole supporter of his wife and child. *Form I-290B*, dated March 23, 2005.

The record indicates that on September 5, 1993 at the San Luis, AZ Port of Entry, the applicant presented a Border Crossing Card that did not belong to him to gain entry into the United States.

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.

Section 212(i) of the Act provides that a waiver of the bar to admission resulting from section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member. Hardship the alien himself experiences or his child experiences due to separation is irrelevant to section 212(i) waiver proceedings unless it causes hardship to the applicant's spouse. 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).

The AAO notes that extreme hardship to the applicant's spouse must be established in the event that she resides in Mexico or in the event that she resides in the United States, as she is not required to reside outside of the United States based on the denial of the applicant's waiver request. The AAO will consider the relevant factors in adjudication of this case.

The record in this case includes a statement from the applicant's spouse, a medical note concerning the applicant's spouse and a contract to purchase a residence. The applicant's spouse states that she is currently stay at home mother and is not employed. She states that she and the applicant have a six-year-old child together and recently bought a home for \$118,500. She states that if her husband is removed from the United States she will not be able to afford the home and take care of their child. The applicant's spouse states that the applicant works at Pep Boys and earns \$17 per hour. The AAO notes that the record does not include an employer letter or any other financial documents regarding the family's expenses, except for the contract to purchase a residence, which only shows the amount of their mortgage. In addition, the record does not include any documentation showing that the applicant's spouse is unable to find employment.

The applicant's spouse also states that she is not in good health. She submitted a letter from her doctor, [REDACTED] which states that the applicant's spouse suffers from obesity, diabetes and elevated cholesterol. This letter does not establish that the applicant's spouse requires the daily care of the applicant to maintain her well-being.

The applicant's spouse states that she would suffer emotionally and her entire family lives in the United States. The applicant's spouse submitted no documentation to establish that the emotional hardship she is suffering is beyond that experienced by spouses in the same situation.

The AAO notes that the applicant's spouse will endure hardship as a result of being separated from the applicant, but the current record does not establish that this hardship rises to the level of extreme. In addition, the spouse does not address the hardship she may face as a result of relocating to Mexico with the applicant. Therefore, the AAO must find that the applicant would not suffer extreme hardship as a result of relocating to Mexico.

U.S. court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. *See Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991). For example, *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), held that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship. In addition, *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), held that the common results of deportation are insufficient to prove extreme hardship and defined extreme hardship as hardship that was unusual or beyond that which would normally be expected upon deportation. *Hassan v. INS*, *supra*, held further that the uprooting of family and separation from friends does not necessarily amount to extreme hardship but rather represents the type of inconvenience and hardship experienced by the families of most aliens being deported.

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 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. *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.