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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: PHOENIX, ARIZONA Date: **JUN 28 2006**

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:

[REDACTED]

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, Arizona, 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 procured admission into the United States in 1974 by presenting a counterfeit lawful permanent resident (LPR) card, Form I-551. The applicant is therefore inadmissible to the United States pursuant to § 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i). The applicant is married to a U.S. citizen and is the beneficiary of an approved petition for alien relative. She seeks a waiver of inadmissibility under § 212(i) of the Act, 8 U.S.C. § 1182(i).

The district director concluded that the applicant had failed to establish extreme hardship to her U.S. citizen husband, and denied the application accordingly. On appeal, counsel asserts that Citizenship and Immigration Services (CIS) should have considered the fact that the applicant's misrepresentation occurred many years ago, when she was in her early twenties. Counsel contends that the applicant's husband will suffer extreme hardship if he relocates to Mexico to accompany the applicant. Counsel maintains that CIS failed to consider that at 69 years of age, the applicant's husband will find it difficult to work in Mexico, and he will also most likely suffer age-related health problems without the benefit of the Medicare system available to him in the United States. Counsel points out that the applicant's husband has lived most of his life in the United States, and he has no close relatives in Mexico. Counsel adds that the applicant's husband owns a home in the United States, and if he moved, he would have to give up his property, as well as his ties to the community. Counsel contends that CIS also failed to give due weight to the suffering caused by a separation from the applicant.

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 may, in the discretion of the Attorney General, 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 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 § 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. Although extreme hardship is a requirement for § 212(i) relief, once established, it is but one favorable discretionary factor to be considered. *See Matter of Mendez*, 21 I&N Dec. 296 (BIA 1996). For example, *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 568-69 (BIA 1999) held that the underlying fraud or misrepresentation may be considered as an adverse factor in adjudicating a § 212(i) waiver application in the exercise of discretion. If, on the other hand, the applicant fails to establish extreme hardship to a qualifying relative, it is not necessary to analyze discretionary factors present.

In *Cervantes-Gonzalez*, *supra*, the Board provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship pursuant to § 212(i) of the Act. These 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; significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate. *See Cervantes-Gonzalez* at 565-566.

In this case, the applicant's qualifying relative is her U.S. citizen spouse. Counsel asserts that the applicant's husband would suffer extreme hardship if he moved to Mexico with the applicant, because he would be separated from his family and community in the United States, and, given the weak Mexican economy and his age, he would find it difficult to earn a living in Mexico. If the applicant's husband remained in the United States, he would suffer emotional hardship due to the separation from the applicant.

U.S. court decisions have repeatedly held that the common results of removal are insufficient to prove extreme hardship. *See Hassan v. INS*, 927 F.2d 465, 468 (9<sup>th</sup> Cir. 1991), *Perez v. INS*, 96 F.3d 390 (9<sup>th</sup> Cir. 1996); *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996) (holding that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship); *Matter of Shaughnessy*, 12 I&N Dec. 810 (BIA 1968) (holding that separation of family members and financial difficulties alone do not establish extreme hardship). "[O]nly in cases of great actual or prospective injury . . . will the bar be removed." *Matter of Ngai*, 19 I&N Dec. 245, 246 (BIA 1984). *Perez v. INS*, *supra*, defined "extreme hardship" as an unusual experience, or one that exceeds the suffering that would normally be expected upon removal. Moreover, the U.S. Supreme Court held in *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship.

The record does not contain documentation that establishes that the applicant's husband would have greater difficulty than others in adjusting to life in Mexico, or that his experience in Mexico would be more negative than that of similarly situated persons. In addition, although the AAO recognizes the difficulties caused by a separation from the applicant, the evidence does not establish that her husband would suffer more than other spouses in the same circumstances. The record establishes that the applicant's spouse's hardship does not exceed the normal emotional, social, and economic disruptions involved in the removal of a family member. 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 § 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.