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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

H2

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FILE:



Office: CHICAGO, IL

Date: MAY 30 2006

IN RE:



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:

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.

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, Chicago, Illinois, 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 is the beneficiary of a petition for alien relative filed by his U.S. citizen father. The applicant was found to be inadmissible to the United States under § 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having attempted to procure entry into the United States by fraud or willful misrepresentation. The applicant seeks a waiver of inadmissibility pursuant to § 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with his U.S. citizen father and other family members.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. On appeal, the applicant contends that his father would suffer extreme hardship if he is removed, due to his father's medical problems. In support of this assertion, the applicant submits a statement written by his father and a note from a physician.

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.

The record reflects that in 1997 the applicant presented an I-551 card belonging to someone else in an attempt to gain admission to the United States. The immigration inspector discovered the misrepresentation, and did not allow the applicant to enter. According to the record, the applicant then entered the United States without inspection. The applicant is thus inadmissible pursuant to § 212(a)(6)(C) of the Act.

A § 212(i) waiver is dependent first upon a showing that the bar imposes an extreme hardship to the citizen or lawfully resident spouse or parent of the applicant. Hardship the alien himself experiences upon deportation is irrelevant to these proceedings; the only relevant hardship in the present case is hardship suffered by the applicant's father. 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).

*Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565-566 (BIA 1999) provides a list of factors the Board of Immigration Appeals (BIA) deems 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; 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.

On appeal, the applicant's U.S. citizen father writes that he is 53 years old and suffers from visual deficiency, poor hearing, and chronic depression. He states that the applicant drives him to work and medical appointments, acts as a translator, and helps keep financial records and read the daily mail. The record contains a note written [REDACTED] who states that the applicant's father suffers from "mental disease" and requires the applicant's attention 24 hours a day. The AAO finds the medical documentation vague and ambiguous and lacking information upon which to base a conclusion relating to the applicant's father's need for assistance. For example, the doctor's note does not indicate [REDACTED] is the applicant's father's physician, and if so, how long the doctor has treated the patient and for which ailments. The diagnosis of "mental disease" encompasses a myriad pathologies, and the doctor does not indicate what treatment, if any, the applicant's father requires. The AAO cannot determine that the applicant's father would suffer extreme hardship in the applicant's absence due to his medical conditions. In the alternative, there is no information on the record regarding the applicant's father's ability to obtain medical treatment in Mexico if he chooses to accompany the applicant to his native country.

The applicant's father also writes that he depends on the applicant to cover his medical expenses and to help pay his mortgage. The record does not contain any documentation regarding the applicant's father's medical expenses, nor does it establish that the applicant's father would be unable to make financial or lifestyle changes should the applicant be removed.

The AAO recognizes that the applicant's father will endure hardship as a result of separation from the applicant. However, his situation is typical to individuals separated as a result of removal and does not rise to the level of extreme hardship based on the record. 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), 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. 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.

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's father 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 § 212(a)(6)(C) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* § 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.