

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

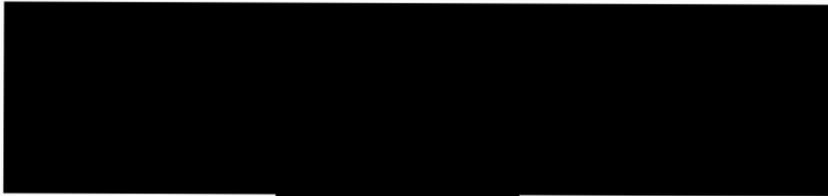
U.S. Department of Homeland Security
20 Mass Ave. N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

H2

PUBLIC COPY



FILE:



Office: LOS ANGELES, CA

Date:

NOV 07 2006

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:

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, Los Angeles, CA, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Guatemala 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 December 9, 1995. 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 the evidence in the record does not support a finding that the applicant's spouse would suffer extreme hardship as a result of the applicant's removal. The application was denied accordingly. *Decision of the District Director*, dated March 2, 2005.

On appeal, the applicant's spouse submits additional evidence and asserts that he will suffer extreme hardship as a result of the applicant's inadmissibility. *Letter from Applicant's Spouse*, dated March 29, 2005.

The record includes, but is not limited to the following documents: the applicant's spouse's naturalization certificate, the applicant's marriage certificate, the applicant and her spouse's birth certificates and copies of the applicant and her spouse's 2003 joint tax returns.

The record indicates that on December 9, 1995 the applicant attempted to enter the United States at the San Ysidro Port of Entry by presenting a photo altered Border Crossing Card belonging to [REDACTED]

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.

A 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 herself 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 he resides in Guatemala or in the event that he resides in the United States, as he 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 applicant's spouse states in his letter dated March 29, 2005, that he would suffer extreme emotional hardship as a result of the applicant's inadmissibility to the United States. He states that he cannot imagine not having the applicant with him in the United States. He explains that he has been married to the applicant for 10 years and has known her since 1983. The applicant's spouse also asserts that he and the applicant are too far along in age to consider starting their lives in separate countries.

The AAO finds that the applicant's spouse has not established that he would suffer extreme hardship as a result of the applicant's inadmissibility to the United States. The applicant's spouse states that he would suffer extreme emotional hardship, but he does not provide any documentation to support this claim or to establish the extent of his emotional suffering and how this suffering is affecting his well being. In addition, the applicant does not make any assertions regarding his possible relocation to Guatemala and any hardships he may suffer as a result of relocating to Guatemala.

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 she 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.