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U.S. Department of Homeland Security  
20 Massachusetts Ave. NW, Rm. 3000  
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U.S. Citizenship  
and Immigration  
Services

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[Redacted]

H2

FILE:

Office: CHICAGO, IL

Date:

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:

[Redacted]

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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.

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 was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for attempting to procure admission into the United States by fraud or willful misrepresentation. The applicant is the spouse of a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States.

The district director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the District Director*, dated May 6, 2005.

On appeal, counsel asserts that there is no evidence that the applicant used a counterfeit document to gain entry into the United States and the applicant's spouse will suffer extreme hardship beyond the normal results of deportation. *Brief in Support of Appeal*, at 1-2, 5, dated June 3, 2004.

The record includes, but is not limited to, counsel's brief, affidavits from the applicant and his spouse, and a psychological evaluation of the applicant's spouse. The entire record was reviewed and considered in arriving at a decision on the appeal.

Counsel asserts that there is no evidence that the applicant used a counterfeit document to gain entry into the United States. *Brief in Support of Appeal*, at 1-2. However, the record reflects that the applicant attempted to enter the United States with a counterfeit document on September 30, 1980.<sup>1</sup> *Federal Bureau of Investigation, Criminal Justice Information Services Division Report*, dated March 26, 2004. As a result of this prior misrepresentation, the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act.

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

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<sup>1</sup> The AAO notes that the district director erred in listing September 30, 1999 as the date of attempted entry in the April 1, 2004 decision, however, the correct date of September 30, 1980 was listed in the amended decision of May 6, 2005.

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 AAO notes that section 212(i) of the Act provides that a waiver of inadmissibility is dependent first upon a showing that the bar to admission imposes an extreme hardship on a qualifying family member. If extreme hardship is established to the applicant's spouse, the Secretary then assesses whether an exercise of discretion is warranted.

*Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560 (BIA 1999) provides a list of factors the Board of Immigration Appeals deems relevant in determining whether an alien has established extreme hardship pursuant to section 212(i) of the Act. These factors include the presence of lawful permanent resident or United States citizen family ties to 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.

The AAO notes that extreme hardship to the applicant's spouse must be established in the event that she resides in the 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 denial of the applicant's waiver request.

The first part of the analysis requires the applicant to establish extreme hardship to his spouse in the event that she resides in Mexico. The record reflects that the applicant's spouse came to the United States with her family, she has five siblings and most of her family members reside in Chicago. *Psychological Evaluation*, at 1, dated January 13, 2004. Counsel states that the applicant's spouse will not be able to return to school to get her teaching certificate, her professional career will come to an end and she will suffer watching her children having to quit school in order to work. *Brief in Support of Appeal*, at 4. Counsel states that uprooting an entire family in good living conditions and forcing them to live in abject poverty is extreme hardship. *Id.* at 4-5. Counsel states that the applicant's spouse will face depression beyond normal due to the age of her two older children. *Id.* at 5. The applicant's spouse states that the applicant will be their only source of income. *Applicant's Spouse's Statement*, dated April 28, 2004. There is no evidence that the applicant's spouse cannot assist with the family income, that she cannot pursue education in Mexico or that the children cannot attend school in lieu of working. The record does not include any evidence of country conditions. In addition, the AAO notes that adapting to a different environment is a normal result of joining a spouse who has been removed from the United States, as is adapting to a new financial situation. The record does not reflect hardship beyond that which would normally be expected. Therefore, the record does not evidence extreme hardship to the applicant's spouse in the event of relocation to the Mexico.

The second part of the analysis requires the applicant to establish extreme hardship in the event that his spouse remains in the United States. Counsel states that the applicant's spouse has a temporary teaching certificate which expires this year, she will not be able to continue teaching unless she obtains a regular teaching certificate and this would require returning to college for two and one-half years. *Brief in Support of Appeal*, at 3. Counsel states that the applicant's spouse was never employed by Chicago Public Schools on a permanent basis and her income as a teacher has now ended. *Id.* The AAO notes that there is no

substantiating evidence of these claims. The record includes a psychological evaluation which states that the applicant's deportation would result in exceptional and unusual hardship to his spouse. *Psychological Evaluation*, at 4. The AAO acknowledges the important role of a clinical psychologist, however, it gives little weight to the submitted report as it is based on a one-time meeting and there is no mention of a follow-up appointment, proposed therapy or treatment for the applicant's spouse. Although sympathetic to the difficulties of separation, the AAO notes that separation entails inherent emotional stress and financial problems that are common to those involved in the situation. The record does not evidence extreme hardship to the applicant's spouse in the event of remaining in the United States without the applicant.

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.

Moreover, the AAO notes that 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 AAO recognizes that the applicant's spouse will endure hardship as a result of separation from the applicant and is sympathetic to her situation. However, her situation, based on the record, is typical to individuals separated as a result of deportation or exclusion and does not rise to the level of extreme hardship.

The AAO notes that 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.