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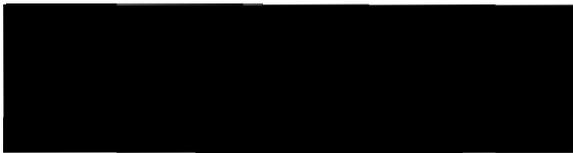
U.S. Department of Homeland Security
20 Mass. Avenue, N.W., Rm. A3000
Washington, DC 20529



U.S. Citizenship
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FILE:

Office: LOS ANGELES DISTRICT OFFICE

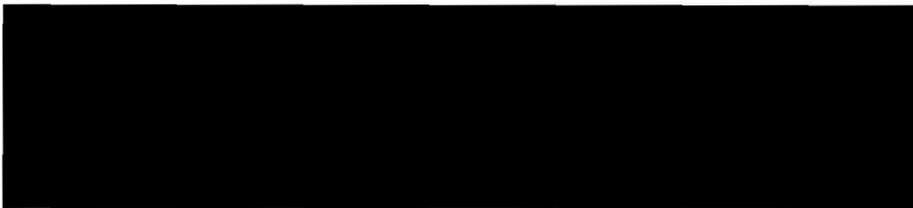
Date: OCT 03 2006

IN RE:



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

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, Los Angeles. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The applicant, [REDACTED] a native and citizen of Mexico, was found to be inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of crimes involving moral turpitude. The record indicates that the applicant has a U.S. citizen spouse, [REDACTED] and two U.S. citizen children and that his mother is a lawful permanent resident. The applicant seeks a waiver of inadmissibility under section 212(h) of the Act, 8 U.S.C. § 1182(h), in order to reside with his family in the United States.

The district director based the finding of inadmissibility under section 212(a)(2)(A)(i)(I) of the Act on the applicant's convictions of the offense of receiving/concealing stolen property, committed on or about April 14, 1996; and forging an official seal, committed on or about February 2000. Counsel does not contest the district director's determination of inadmissibility. *District Director's Decision*, dated March 2, 2005.

The district director also found 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. *Id.*

On appeal, counsel asserts that the district director failed to properly consider all the factors in [REDACTED] case, particularly "in assessing the severity of the medical condition afflicting [his] mother." *Notice of Appeal (Form I-290B)*, dated March 24, 2005; *Brief in support of Appeal/Motion to Reconsider*, dated April 25, 2005.

The record includes income tax records from 1999 through 2004 indicating [REDACTED] the sole support of his wife and children; a letter from Middleton Street Elementary School confirming [REDACTED] active involvement in his daughter's education and volunteer work at her school; letters from the Regional Commissioner and the Secretary of the American Youth Soccer Organization stating that [REDACTED] serves as a volunteer soccer coach and referee and is an asset to the community; an affidavit from [REDACTED] describing how close the family is and how much she and their children depend on [REDACTED] involved he is with raising their children, and how much she and the children would suffer if they moved to Mexico away from their extended family and their school, indicating that they want to raise their children in the United States; a letter from the Los Angeles County Office of Education confirming [REDACTED] enrollment full time in a training program in Early Childhood Education through Cerritos Community College to prepare for a career as an instructional Assistant/Associate Teacher with the Head Start Program; numerous photos showing [REDACTED] and [REDACTED] and their children engaged in extracurricular activities and numerous award certificates for academic and extracurricular achievements by the children; letters of support from employers, family members and the pastor of the church [REDACTED] attends; and a Library of Congress Country Studies report from June 1996 discussing problems regarding education, health care and social security in Mexico. Also in the record are medical reports, prescriptions and a letter from the doctor who treats [REDACTED] mother that indicate that she has serious health problems; and affidavits from the applicant, his wife and his mother that

describe his mother's ailments and how [REDACTED] provides both financial and personal support for her. The record also contains [REDACTED] court documents. The entire record was reviewed and considered in arriving at a decision on the appeal

Section 212(a)(2)(A) of the Act states in pertinent part:

(i) [A]ny alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of –

(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime . . . is inadmissible.

Section 212(h) of the Act provides, in pertinent part, that:

The Attorney General [now, Secretary, Homeland Security, "Secretary"] may, in his discretion, waive the application of subparagraphs (A)(i)(I) . . . of subsection (a)(2) . . . if –

(1) (A) . . . it is established to the satisfaction of the Attorney General that –

(i) . . . the activities for which the alien is inadmissible occurred more than 15 years before the date of the alien's application for a visa, admission, or adjustment of status,

(ii) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States, and

(iii) the alien has been rehabilitated; or

(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the alien's denial of admission would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien . . .

The record indicates that [REDACTED] was convicted of offenses that were committed in 1996 and in 2000. His current application for adjustment of status is less than 15 years after those activities; he is therefore statutorily ineligible for a waiver pursuant to section 212(h)(1)(A) of the Act. He is, however, eligible to apply for a waiver of inadmissibility pursuant to section 212(h)(1)(B) of the Act.

A section 212(h)(1)(B) waiver of inadmissibility is dependent upon a showing that the bar to admission imposes an extreme hardship on a "qualifying relative," *i.e.*, the U.S. citizen or lawfully resident spouse, parent or son or daughter of the applicant. Hardship to the applicant himself is irrelevant to section 212(h) waiver proceedings and will be considered only insofar as it results in hardship to a qualifying relative in the

application. If extreme hardship to a qualifying relative is established, in this case [REDACTED] U.S. citizen wife or children, or his lawful permanent resident mother, the Secretary then assesses whether an exercise of discretion is warranted. Section 212(h) of the Act; *see also Matter of Mendez-Morales*, 21 I&N Dec. 296 (BIA 1996).

The concept of extreme hardship to a qualifying relative “is not . . . fixed and inflexible,” and whether extreme hardship has been established is determined based on an examination of the facts of each individual case. *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565 (BIA 1999). In *Matter of Cervantes-Gonzalez*, the Board of Immigration Appeals set forth a list of non-exclusive factors relevant to determining whether an applicant has established extreme hardship to a qualifying relative pursuant to section 212(i) of the Act. These factors include, with respect to the qualifying relative, the presence of family ties to U.S. citizens or lawful permanent residents in the United States, family ties outside the United States, country conditions where the qualifying relative would relocate and family ties in that country, the financial impact of departure, and significant health conditions, particularly where there is diminished availability of medical care in the country to which the qualifying relative would relocate. *Id.* at 566.

Relevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists. In each case, the trier of fact must consider the entire range of factors concerning hardship in their totality and determine whether the combination of hardships takes the case beyond those hardships ordinarily associated with deportation.

Matter of O-J-O-, 21 I&N Dec. 381, 383 (BIA 1996) (citations omitted).

This matter arises in the Los Angeles district office, which is within the jurisdiction of the Ninth Circuit Court of Appeals. That court has stated, “the most important single hardship factor may be the separation of the alien from family living in the United States,” and also, “[w]hen the BIA fails to give considerable, if not predominant, weight to the hardship that will result from family separation, it has abused its discretion.” *Salcido-Salcido v. INS*, 138 F.3d 1292, 1293 (9th Cir. 1998) (citations omitted); *Cerrillo-Perez v. INS*, 809 F.2d 1419, 1424 (9th Cir. 1987) (remanding to BIA) (“We have stated in a series of cases that the hardship to the alien resulting from his separation from family members may, in itself, constitute extreme hardship.”) (citations omitted). In *Salcido*, the court remanded to the Board of Immigration Appeals (BIA) for failure to consider the factor of separation despite respondent’s testimony that if she were deported her U.S. citizen children would remain in the United States in the care of her mother and spouse. *See also Babai v. INS*, 985 F.2d 252 (6th Cir. 1993) (failure to consider hardship to U.S. citizen child if he remained in the United States is reversible error). Of particular relevance to cases in which children are qualifying relatives,

Although we do not go so far as to hold that the separation of a father from his child is, as a matter of law, extreme hardship for purposes of [suspension of deportation], we do hold that where a father expresses deep affection for his child and where the record demonstrates that his actions are consistent with and supportive of his expression of affection, a finding

of no extreme hardship will not be affirmed . . . unless the reasons for such a finding are made clear.

Bastidas v. INS, 609 F.2d 101, 105 (3rd Cir. 1979). Separation of family will therefore be given appropriate weight in the assessment of hardship factors in the present case.

An analysis under *Matter of Cervantes-Gonzalez* is appropriate. The AAO notes that extreme hardship to a qualifying relative must be established in the event that he or she accompanies [redacted] and resides in Mexico or in the event that he or she remains in the United States, as a qualifying relative is not required to reside outside of the United States based on the denial of the applicant's waiver request.

The first part of the analysis requires [redacted] establish extreme hardship to his wife, children or mother in the event that they relocate with him to Mexico. In this case, the record reflects that [redacted] was born in Los Angeles, California, in 1978, and has resided in California her whole life. [redacted] was born in 1974 in Mexico, entered the United States without inspection in 1987, and has resided in California since then. [redacted] states that she met [redacted] in 1992, when she was 14 years old; they started a "courtship" shortly thereafter and were married in 1996; she describes him as her "best friend and partner in life." Their first child, a daughter, was born in 1997; their second child, a son, was born in 1999. The record indicates that both children are in school and on soccer teams, and that [redacted] is an involved parent and soccer coach, and active in his children's education and volunteer work at their school. Tax records indicate that [redacted] has been the sole or primary support of his family for many years, and that his employment provided health care for the family, while [redacted] cared for their home and children. Tax records for 2003 show that [redacted] contributed \$9,900 to the family's income from a childcare business; tax records for 2004 indicate that [redacted] wages of \$17,600 comprised the family's total income; an employer's letter from March 2005 confirms his employment as a certified forklift operator at \$8.00 per hour. [redacted] was enrolled full time in 2005 in a training program for a career as a teacher with the Head Start Program. The record indicates that [redacted] mother lives adjacent to the [redacted] family (they share the same address); she was born in 1930 in Mexico and became a permanent resident of the United States in 1989. She states that she is a widow and has eight children; all of her children live in the United States and, other than [redacted] they are either lawful permanent residents or U.S. citizens; and that other than one sister, [redacted] no family members remain in Mexico. The record indicates that she suffers from advanced osteoarthritis, making it difficult for her to walk; and a herniated disc requiring treatment by a neurosurgeon. Affidavits from her and from [redacted] and [redacted] indicate that she and the [redacted] family are extremely close, interact on a daily basis, and that because of her health problems she depends on [redacted] financially and emotionally.

The AAO recognizes that the family would suffer economic detriment and their wage-earning potential would be diminished if they moved to Mexico, and that their standard of living, including health and education benefits would be reduced, given social and economic conditions in Mexico. Courts considering the impact of financial detriment on a finding of extreme hardship have repeatedly held that, while it must be considered in the overall determination, "[e]conomic disadvantage alone does not constitute "extreme hardship." *Ramirez-Durazo v. INS*, 794 F.2d 491, 497 (9th Cir. 1986) ("lower standard of living in Mexico and the difficulties of readjustment to that culture and environment . . . simply are not sufficient"); *Shoostary v. INS*,

39 F.3d 1049 (9th Cir. 1994) (“the extreme hardship requirement . . . was not enacted to insure that the family members of excludable aliens fulfill their dreams or continue in the lives which they currently enjoy”); *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); *INS v. Jong Ha Wang*, 450 U.S. 139 (1981) (upholding BIA finding that economic detriment alone is insufficient to establish extreme hardship).

However, particularly in the Ninth Circuit, courts have recognized that, in certain cases, economic impact combined with related personal and emotional hardships may cause the hardship to rise to the level of extreme. “Included among these are the personal hardships which flow naturally from an economic loss, decreased health care, educational opportunities, and general material welfare.” *Mejia-Carrillo v. INS*, 656 F.2d 520, 522 (9th cir. 1981) (citations omitted); see also *Santana-Figueroa v. INS*, 644 F.2d 1354, 1358 (9th cir. 1981) (“Economic loss often accompanies deportation. Even a significant reduction in standard of living is not, by itself, a basis for relief. . . . But deportation may also result in the loss of all that makes life possible. When an alien would be deprived of the means to survive, or condemned to exist in life-threatening squalor, the “economic” character of the hardship makes it no less severe.”).

In this case, the family’s reduced economic status in Mexico is not, by itself, a basis for relief. There are, however, additional personal hardships that would represent increased hardships for [redacted] qualifying relatives. In addition to the financial problems that would arise were the family to join [redacted] in Mexico, the record indicates that educational opportunities for the [redacted] children would be diminished, as evidenced by the Library of Congress Report for 1996 in the record, which, although somewhat outdated, highlights deficiencies in the basic education system that carry over into public postsecondary education. The record also indicates that [redacted] has no family members other than one aunt in Mexico, and no social or community ties in Mexico, having lived in the United States since he was 13 years old; and there is no indication that [redacted] has any family, social or community ties in Mexico, as she was born and has spent her entire life in the United States. This lack of support in Mexico would have a detrimental effect on the family if [redacted] were forced to relocate to Mexico and the family decided to join him there. The hardship the family would face is substantially greater than that which was found insufficient in *Ramirez-Durazo, supra*. The hardship in that case, which involved suspension of deportation under former section 244 of the Act, 8 U.S.C. § 1254, rather than a waiver of inadmissibility, involved a family of five, only one of whom, the youngest child, was a U.S. citizen. The Ninth Circuit noted in that case that the BIA had properly significantly discounted the hardship that the family would face if removed, due in part to the relative ease of transition back into their home country, where they had an abundance of family ties. Unlike the applicants in *Ramirez-Durazo*, neither [redacted] nor the applicant has any family ties in Mexico; and there are no siblings or parents available in Mexico to assist [redacted] and their children to adjust to life in a country where they have never resided.

The two [redacted] children would also suffer from being taken out of school and separated from their friends and extended family in the United States and the only life they have known. U.S. courts have held that “imposing on grade school age citizen children, who have lived their entire lives in the United States, the alternatives of either . . . separation from both parents or removal to a country of a vastly different culture” must be considered in a determination of whether extreme hardship has been shown (*Ramos v. INS*, 695 F.2d

181, 186 (5th Cir. 1983) (emphasis added), noting that “there is, of course, a great difference between the adjustment required of . . . infants and that of grade school age children.” *Id.* at 187, fn 16; *see also Matter of Kao & Lin*, 23 I & N Dec. 45 (BIA 2001) (finding extreme hardship for a 15 year old, who had lived her entire life in the United States and was completely integrated into her American lifestyle, if she were uprooted upon her parent’s deportation).

The lack of family or community support combined with the diminished family income likely in Mexico, reduced educational opportunity, and effect of removal on their grade school age children who were born and raised in the United States lead to a conclusion that [REDACTED] and the [REDACTED] two U.S. citizen children would indeed suffer extreme hardship if they chose to move to Mexico to avoid separation from [REDACTED]. Clearly, [REDACTED] mother’s advanced age and health problems, long term residence in the United States and ties to immediate family members in the United States indicate that a move to Mexico would represent an extreme hardship for her.

The second part of the analysis requires the applicant to establish extreme hardship to a qualifying relative in the event that he or she remains in the United States separated from the applicant. The record shows that Mr. [REDACTED] works in the United States as a forklift operator, earning \$17,600 in 2004, comprising the family’s sole income. If he were forced to move to Mexico, he would give up this income, which would have a significant financial impact on his wife and children. The evidence in the record indicates that [REDACTED] has successfully completed a Forklift Certification Training Course; otherwise, there is no evidence that [REDACTED] or [REDACTED] have any advanced education or training in a marketable skill which would benefit them in seeking employment, whether in the United States or Mexico. Although there is nothing in the record to support a conclusion that [REDACTED] would not be able to find work in Mexico and support himself, it is clear that he will lose his current job and his wife will shoulder an increased burden of supporting herself and their children. The record indicates that [REDACTED] made a significant contribution to the family’s income in 2003, contributing \$9,900, and that she is training to become a teacher, which represents an opportunity for future employment. However, given her history of years of dependency on her husband for financial support, lack of higher education or skills training, and lack of gainful employment in the past, the loss of her husband’s income is significant. The AAO notes that the Health and Human Services Poverty Guidelines, <http://aspe.hhs.gov/poverty/figures-fed-reg.shtml> (last revised January 24, 2006) indicate that \$16,600 is the minimum income needed to support a family of three in 2006. [REDACTED] history of employment has never achieved this minimum.

Beyond the financial hardship [REDACTED] would face without the support of her husband, the record indicates that she was 14 when she met [REDACTED] in 1992 and 18 when they were married and that she has been dependent on him since then. This long term emotional and financial dependency is significant when assessing how separation will affect her.

The [REDACTED] children would suffer both the financial hardship that would result from the loss of their father’s income as well as the emotional and psychological hardship of separation from their father. As noted above, considerable, if not predominant, weight must be given to the hardship that will result from such separation. *See Salcido-Salcido, supra; Bastidas, supra* (the court explicitly stressed the importance to be given the

factor of separation of parent and child). It is also important to note that both of the [REDACTED] children are in school and thriving. "Imposing on grade school age citizen children, who have lived their entire lives in the United States, the alternatives of either . . . separation from both parents or removal to a country of a vastly different culture" must be considered in a determination of whether extreme hardship has been shown. See *Ramos v. INS*, discussed *supra*. The *Ramos* court, in remanding a suspension of deportation case to the BIA, referred to separation from both parents, unlike the situation in the instant case; however, the court stressed the significance of the child's age and enrollment in school as having a bearing on the difficulties the child would have in adjusting to the hardships of relocation. Also in that context, courts have recognized the general proposition that "psychological trauma may be a relevant factor in determining whether a United States citizen child will suffer 'extreme hardship.'" *Id.* at 1425, citing *Ravancho v. INS*, 658 F.2d 169, 175 (3rd Cir. 1981). The difficulty a school-aged child has in adjusting to change, in this case, the loss of a parent who the evidence shows has been a longtime source of financial, emotional and personal support, is one of the factors to be considered in determining the hardship a child would suffer if separated from a parent. Hardship to a citizen child remaining in the United States must be considered on a case by case basis, and a decision maker "must consider the specific circumstances of citizen children and reach an express and considered conclusion as to the effect of those circumstances upon those children" both in regards to the hardships of relocation and the alternative hardship of separation. See *Cerrillo-Perez, supra* at 1426. Although the fact of separation from a qualifying relative is clearly not the sole basis for a finding of extreme hardship, "existing case law uniformly emphasizes the importance of the question of the separation of family members from each other for purposes of a [section] 244(a)(1) extreme hardship determination." *Bastidas v. INS, supra* at 105.

In this case, the letters and affidavits provided by family and community members consistently refer to [REDACTED] [REDACTED] active and caring role as a husband and father, not only in providing financial support, but also in providing emotional and personal support for his children, including by serving as a well respected coach and referee on his children's soccer teams, ensuring that his children are taken to and from school, and volunteering at their school. His positive involvement in their daily lives is evident; he is described as a loving and caring father, and his actions are consistent with and supportive of this description. In this regard, although there is no psychiatric evaluation in the record that assesses how the [REDACTED] children will react to separation from their father, the fact of their close relationship and daily interaction, which will be lost if they are separated from their father, is documented. There is every indication that he is a loving and caring parent and husband whose loss would be devastating to his children and wife in many ways if they were separated from him.

Based on the above evidence, the applicant has established that the cumulative general emotional effect that the family separation would have on [REDACTED] and her children, combined with the increased financial, personal and familial burdens that they would face if the applicant were not permitted to reside in the United States with his family, render the hardship in this case beyond that which is normally experienced in most cases of removal or inadmissibility. In addressing the financial strain deportation of a husband and father would cause a family, the BIA found that this would not be significant in a case where the wife had supported the family in the past and was currently capable of working, and a relative outside the United States was a primary source of financial support. *Hassan v. INS*, 927 F.2d 465, 468 (9th Cir.1991). The facts

in this case differ in that [REDACTED] has never supported the family and there is no outside source of income. Other hardship factors in this case are “unusual or beyond that which would normally be expected” upon removal (*see Perez v. INS*, 96 F.3rd 390, 392 (9th Cir. 1996)) when viewed in light of the *Cervantes-Gonzalez* decision, *supra*. The BIA found that [REDACTED] had failed to show that his spouse would suffer extreme hardship over and above the normal economic and social disruptions involved in the deportation of a family member, where the couple had been married approximately four years, most of the applicant’s family resided in Mexico, they had no financial ties to the United States, and they had no children. *Id.* By contrast, [REDACTED] and [REDACTED] have been married for approximately eight years, [REDACTED] has provided financial support for his family in the United States for many years, neither he nor his wife have family ties in Mexico, and they have two school-aged children, [REDACTED] and the [REDACTED] children were born and raised in the United States; [REDACTED] is their sole financial support, [REDACTED] was very young when she entered into what has become a long-term dependent relationship with [REDACTED] and the couple’s two children have a loving and dependent relationship with their father. The specific circumstances of [REDACTED] and the children and the effect that separation from the applicant would have on them must be taken into consideration. Relevant factors, though not extreme in themselves, must be considered in the aggregate. Though any one of the hardships [REDACTED] and the [REDACTED] children would suffer due to separation from [REDACTED] may not amount to extreme hardship, a finding of extreme emotional and financial hardship is the inevitable conclusion when viewed in the aggregate.

A discounting of the hardship a qualifying relative would face in either the United States or Mexico if [REDACTED] were refused admission is not appropriate. Given the evidence of hardship, considered in the aggregate and in light of the *Cervantes-Gonzalez* factors, cited above, the AAO finds that the applicant has established that his wife and children would suffer extreme hardship if his waiver of inadmissibility is denied. In proceedings for application for waiver of grounds of inadmissibility under section 212(h) of the Act, the burden of proving eligibility rests with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has met that burden.

Having reached that conclusion, it is not necessary to show that [REDACTED] mother would also suffer extreme hardship if [REDACTED] were not granted a waiver of inadmissibility. The AAO notes, however, that there is insufficient evidence in the record to make such a determination. Evidence in the record indicates that [REDACTED] mother has serious health problems, receives periodic medical treatment; pays some medical bills in cash; and has been recommended to undergo surgery. However, despite counsel’s statement that [REDACTED] pays for all of her treatment, counsel failed to support this statement with any evidence. Copies of receipts with no indication of who was responsible for payment do not constitute such evidence. The assertions of counsel do not constitute evidence. *Matter of Obaighena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). There is no indication that [REDACTED] seven siblings, all of whom are described as permanent residents or U.S. citizens residing in the United States, are unable or unwilling to offer assistance to their mother or that any care that [REDACTED] gives is essential to her health. Given this lack of relevant information, it is not possible to make a hardship determination regarding [REDACTED] mother.

The AAO additionally finds that the applicant merits a waiver of inadmissibility as a matter of discretion. In discretionary matters, the applicant bears the burden of proving eligibility in terms of equities in the United States which are not outweighed by adverse factors. *See Matter of T-S-Y*, 7 I&N Dec. 582 (BIA 1957).

In evaluating whether section 212(h)(1)(B) relief is warranted in the exercise of discretion, the factors adverse to the alien include the nature and underlying circumstances of the exclusion ground at issue, the presence of additional significant violations of this country's immigration laws, the existence of a criminal record, and if so, its nature and seriousness, and the presence of other evidence indicative of the alien's bad character or undesirability as a permanent resident of this country. The favorable considerations include family ties in the United States, residence of long duration in this country (particularly where alien began residency at a young age), evidence of hardship to the alien and his family if he is excluded and deported, service in this country's Armed Forces, a history of stable employment, the existence of property or business ties, evidence of value or service in the community, evidence of genuine rehabilitation if a criminal record exists, and other evidence attesting to the alien's good character (e.g., affidavits from family, friends and responsible community representatives).

See Matter of Mendez-Morales, 21 I&N Dec. 296, 301 (BIA 1996). The AAO must then, "[B]alance the adverse factors evidencing an alien's undesirability as a permanent resident with the social and humane considerations presented on the alien's behalf to determine whether the grant of relief in the exercise of discretion appears to be in the best interests of the country." *Id.* at 300. (Citations omitted).

The adverse factors in the present case are [REDACTED] convictions for the offenses of receiving/concealing stolen property, committed on or about April 14, 1996, for which he plead guilty and was sentenced to one year in the Los Angeles County Jail; and forging an official seal, committed on or about February 2000, for which he plead guilty and was given a sentence of three years in state prison (suspended); placed on probation for five years and sentenced to 70 days in the Los Angeles County Jail. The record reflects that [REDACTED] was also convicted of the offense of burglary of a vehicle on May 28, 1996, for which he plead *nolo contendere* and was sentenced to three years probation and 270 days in jail. In addition [REDACTED] entered the United States unlawfully in 1987.

The favorable factors in the present case are the applicant's extensive family ties to the United States; extreme hardship to his U.S. citizen wife and children if he were to be denied a waiver of inadmissibility; the applicant's consistent record of employment, payment of taxes and financial support of his family; the applicant's lack of a criminal record or offense since February 2000; and, as indicated by affidavits from his family, employers, children's school and soccer league, and his pastor, the applicant's value to the community, his good moral character, and his attributes as a good father, son and husband.

The AAO finds that the crimes committed by the applicant are serious in nature and cannot be condoned. Nevertheless, the AAO finds that taken together, the favorable factors in the present case outweigh the

adverse factors, such that a favorable exercise of discretion is warranted. Accordingly, the appeal will be sustained.

ORDER: The appeal is sustained.