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U.S. Citizenship  
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Services

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FILE: [REDACTED] Office: FRANKFURT, GERMANY Date: APR 17 2007

IN RE: [REDACTED]

PETITION: 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 PETITIONER:

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 Officer-in-Charge (OIC), Frankfurt, Germany, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The application will be denied.

The applicant, a citizen of Yugoslavia, was found inadmissible to the United States 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 seeking to procure a visa, other documentation, or admission into the United States or other benefit provided under the Act by fraud or willful misrepresentation. The applicant is the son of a United States citizen, and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to enter the United States and join his mother.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on her mother, the qualifying relative, and denied the Form I-601, Application for Waiver of Grounds of Inadmissibility.

On appeal, the applicant contends that his mother would suffer extreme hardship if the applicant were denied entry to the United States. The entire record was reviewed and considered in rendering a decision on the appeal.

The record establishes that the applicant was refused an immigrant visa in July 1995. The applicant was the beneficiary of an approved I-140 petition to work as a baker in the United States. The petition required three years of experience as a baker, and the applicant claimed that he had this experience. However, an investigation conducted through the United States Embassy in Belgrade was unable to verify this purported employment.<sup>1</sup> The Embassy found that he had misrepresented himself and denied the petition. Thus, the applicant attempted to enter the United States by making a willful misrepresentation of a material fact (his work history) in order to procure entry into the United States. Accordingly, the applicant was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i).

Section 212(a)(6)(C) of the Act states, in pertinent part, the following:

- (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.

<sup>1</sup> On appeal, the applicant claims that he did work in the stated capacity, and that he did not misrepresent himself in 1995. He states that he worked as a baker without benefits and without being registered with the Yugoslavian Employment Bureau. He states that that this was a common practice in order to avoid paying social and medical insurance benefits. The applicant states that for reasons unknown to him, the widow and son of his previous employer did not verify his employment. The applicant submits a statement from the other son of his previous employer, which states that no one from the United States Embassy contacted him. However, the applicant has submitted no documentation, other than his own statements, to demonstrate his stated employment. The letter from the owner's son, dated November 9, 1995, does not indicate that the applicant worked at the bakery. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The applicant has submitted no evidence to overcome the Department of State's previous finding of material misrepresentation, and the AAO will adjudicate this petition accordingly.

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) waiver of the bar to admission resulting from violation of section 212(a)(6)(C) of the Act 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 herself experiences upon deportation is irrelevant to section 212(i) waiver proceedings; the only relevant hardship in the present case is that suffered by the applicant's mother. 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).

Thus, the first issue to be addressed is whether applicant's refusal of entry would impose extreme hardship on a qualifying family member. If extreme hardship is established, the AAO will then make an assessment as to whether it should exercise discretion.

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

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 (9<sup>th</sup> Cir. 1991). For example, in *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), the BIA held that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship. In *Perez v. INS*, 96 F.3d 390 (9<sup>th</sup> Cir. 1996), the Court of Appeals for the Ninth Circuit defined "extreme hardship" as hardship that was unusual or beyond that which would normally be expected upon deportation. The Ninth Circuit emphasized that the common results of deportation are insufficient to prove extreme hardship. The United States Supreme Court additionally 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 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 O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996) (citations omitted), the BIA held that:

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.

The record reflects that the applicant's mother is a seventy-year-old citizen of the United States. She has been a citizen since 2000. She has two sons: (1) the applicant, and (2) another son who lives in Marietta, Georgia, with whom she has lived in the past. According to the record, she moved to the United States in 1991, but was living in Serbia and Montenegro (the former Yugoslavia) at the time the Form I-601 was filed.

The record contains a statement from the applicant's mother, dated February 5, 2005. She states that she has suffered two strokes and therefore requires constant care and attention, which can only occur if both of her sons are with her in the United States. She states that she will soon return to the United States for medical treatment, and that she needs the applicant to accompany her:

I will soon need to return to the United States receive medical treatment. If [the applicant] does not receive his visa and our family remains fragmented, this would mean that I will probably never see him again.

This thought along makes me extremely sad and depressed. I long for the day when I will see my sons with me. This is my only hope and this gives me strength to cope with my illness every day. I miss [the applicant] so much and I think of him all the time. I fear that the sadness about our broken family and missing my son will inevitably shorten my remaining days. Please do not let this happen. All these years of waiting have been hard for me. Please grant a wish to a mother who only wants to spend her last years with both of her sons and see her family united again in the United States.

The record contains no evidence to substantiate the claim that the applicant's mother's medical problems was not being treated properly in Serbia and Montenegro and that she would therefore suffer extreme hardship if she remains with her son, the applicant. Nor does the record contain any evidence to establish that the applicant's mother would require the assistance of the applicant if she were to return to the United States. Again, simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The record, reviewed in its entirety and in light of the *Cervantes-Gonzalez* factors, cited above, does not support a finding that the applicant's mother will face extreme hardship if the applicant is refused admission. Particularly if she returns to the United States, the record demonstrates that she faces no greater hardship than the unfortunate, but expected, disruptions, inconveniences, and difficulties arising whenever an adult son is removed from the United States or refused admission. Moreover, as noted previously, she has another adult son in Marietta, Georgia, with whom she has lived in the past. Although the AAO recognizes that the applicant's mother will endure hardship as a result of the separation, and is not insensitive to her situation, her hardship is typical to parents and adult children separated as a result of deportation or exclusion and does not rise to the level of "extreme" as contemplated by statute and case law.

In limiting the availability of the waiver to cases of "extreme hardship," Congress provided that a waiver is not available in every case where a qualifying family relationship exists. As noted previously, United States 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). Further, demonstrated financial difficulties alone are generally insufficient to establish extreme hardship. See *INS v. Jong Ha Wang*, 450 U.S. 139 (1981) (upholding BIA finding that economic detriment alone is insufficient to establish extreme hardship). The AAO finds that the OIC properly denied this waiver application. In adjudicating this petition, the AAO finds that the record fails to demonstrate that the applicant’s mother would suffer hardship beyond that normally expected upon the removal or refusal of entry of a an adult son.

The AAO therefore finds that the applicant failed to establish extreme hardship to his United States citizen parent as required under INA § 212(i), 8 U.S.C. § 1186(i).

In proceedings for application for waiver of grounds of inadmissibility under section 212(i), the burden of establishing that the application merits approval remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has not sustained that burden.

**ORDER:** The appeal is dismissed. The waiver application is denied.