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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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APR 23 2007

FILE:

[REDACTED]

Office: CIUDAD JUAREZ, MEXICO

Date:

(CDJ 1993 538 395 RELATES)

IN RE:

[REDACTED]

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.

Robert P. Wiemann

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Office in Charge, Ciudad Juarez, Mexico 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 under section 212(a)(6)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C), for having attempted to procure entry into the United States by fraud or willful misrepresentation. The applicant is the daughter of lawful permanent resident parents 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 with her parents.

The Officer in Charge concluded that the applicant had failed to establish that extreme hardship would be imposed upon a qualifying relative and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the Officer in Charge*, dated September 27, 2005.

On appeal the applicant states that she did not give false statements to obtain a Form I-94 card. *Form I-290B*.

In support of these assertions the record includes, but is not limited to, a statement from the applicant's father. The entire record was reviewed and considered in rendering this decision.

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 the applicant admitted to a consular officer that her border crossing card was cancelled by the Department of Homeland Security at El Paso, Texas about ten years ago because she gave false statements about her employment to a legacy Immigration and Naturalization Service (INS) officer in order to obtain a Form I-94. *Optional Form 194; See Also consular notes*. Based on the record, the AAO finds that the applicant committed a misrepresentation and is therefore inadmissible under section 212(a)(6)(C) of the Act.

A section 212(i) waiver of inadmissibility resulting from a violation of section 212(a)(6)(C) of the Act is dependent first upon a showing that inadmissibility imposes extreme hardship to the citizen or lawfully resident spouse or parent of the applicant. The plain language of the statute indicates that hardship that the

applicant herself would experience upon removal is not directly relevant to the determination as to whether the applicant is eligible for a waiver under section 212(i). The only hardship relevant to eligibility in the present case is the hardship that would be suffered by the applicant's lawful permanent resident mother or father if the applicant's waiver request is denied. If 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 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 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 qualifying relative, her father, must be established in the event that he resides in Mexico or 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.

If the applicant's father joins the applicant in Mexico, the applicant needs to establish that her father will suffer extreme hardship. The applicant's father was born in Mexico. *Form G-325A, Biographic Information sheet for the applicant*. The record fails to address what family members the applicant's father may have in Mexico. The record fails to address the financial effect upon the applicant's father if he were to reside in Mexico. There is nothing in the record to show that the applicant's father would be unable to contribute to the financial well-being of his family from Mexico. The record also fails to note whether the applicant's father suffers from any type of health conditions, and if so, how living in Mexico would affect him. When looking at the aforementioned factors, the AAO does not find that the applicant has demonstrated extreme hardship to her father if he were to reside in Mexico.

If the applicant's father resides in the United States, the applicant needs to establish that her father would suffer extreme hardship. Both of the applicant's parents live in the United States. *Form I-601*. The applicant's father states that there is a high crime rate in Mexico, specifically in Ciudad Juarez, and that he worries day and night about his situation. *Statement from the applicant's father*, dated August 24, 2005. The AAO acknowledges the assertions made by the applicant's father, however, it notes that the record fails to include documentary evidence to support these assertions. *See 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)). Going on record without supporting documentary evidence will not meet the burden of proof of this proceeding. *Id.* Moreover, although the applicant's father expresses concern regarding her living situation, the record offers no evidence that establishes the extent of this concern, including whether it negatively affects his psychological or physical health. While the AAO acknowledges the difficulties in being separated from loved ones, 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. The AAO recognizes that the applicant's father will endure hardship as a result of separation from the applicant. However, the record does not demonstrate that his situation, if he remains in the United States, is different than that of other individuals separated as a result of removal and that it rises to the level of extreme hardship. When looking at the aforementioned factors, the AAO does not find that the applicant demonstrated extreme hardship to her father if he were to reside in the United States.

Although the applicant lists her mother as a lawful permanent resident on the Form I-601, there is nothing in the record to support that her mother is a lawful permanent resident. Furthermore, the applicant does not address the issue of extreme hardship regarding her mother. As a result, the AAO will not address the issue of extreme hardship as it relates to the applicant's mother.

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(a)(6)(C) 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.