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

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FILE: [REDACTED] Office: CIUDAD JUAREZ, MEXICO
(CDJ 2004 542 103 RELATES)

Date: APR 24 2007

IN RE: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under § 212(i) of the
Immigration and Nationality Act (INA), 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 Officer in Charge, Ciudad Juarez, Mexico. The matter 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 is the beneficiary of an approved Petition for Alien Relative filed by his lawful permanent resident (LPR) father. The applicant seeks to adjust his status to that of lawful permanent resident (LPR); however, he was found to be inadmissible to the United States pursuant to § 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having concealed a criminal arrest from a U.S. consular officer during a 2004 visa interview. The applicant seeks a waiver of inadmissibility pursuant to § 212(i) of the Act, 8 U.S.C. § 1182(i).

The officer in charge found that based on the evidence in the record, the applicant had failed to establish extreme hardship to his LPR parents. The application was denied accordingly. On appeal, the applicant submits a Form I-290B Notice of Appeal with comments written by his father. He does not submit any additional documentation on appeal; however, the AAO has reviewed the entire body of evidence, including two letters written by his father, a letter from his mother's physician, and the criminal record. The AAO concludes that the applicant has not demonstrated that his inadmissibility will cause his parents to suffer extreme hardship.

Section 212(a)(6)(C)(i) of the Act provides:

In general.—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.

8 U.S.C. § 1182(a)(6)(C)(i). The officer in charge based the finding of inadmissibility under this section on the applicant's having concealed his 1998 arrest for forgery from a U.S. consular officer in Ciudad Juarez on October 26, 2004. The applicant does not contest the officer in charge's determination of inadmissibility.

Section 212(i) provides, in pertinent part:

(i) (1) The Attorney General [now Secretary of Homeland Security] may, in the discretion of the Attorney General [now Secretary of Homeland Security], waive the application of clause (i) of subsection (a)(6)(C) in the case of an immigrant 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 [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully permanent resident spouse or parent of such an alien . . .”

8 U.S.C. § 1182(i)(1).

Section 212(i) of the Act provides that a waiver of the bar to admission resulting from § 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. In the present case, in order for the applicant to qualify for a § 212(i) waiver of inadmissibility, he must demonstrate extreme hardship to his LPR parents. In cases where an applicant fails to establish extreme

hardship to a qualifying relative, the applicant is statutorily ineligible for relief, and no purpose would be served in discussing whether the applicant merits a waiver as a matter of discretion.

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. [REDACTED], 22 I&N Dec. 560, 565 (BIA 1999). In *Matter of* [REDACTED] the Board of Immigration Appeals set forth a list of non-exclusive factors relevant to determining whether an alien has established extreme hardship to a qualifying relative pursuant to § 212(i) of the Act. These factors include, with respect to the qualifying relative: 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. *Id.* at 566.

The BIA has held:

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).

In that the applicant's parents are not required to reside outside the United States based on a denial of the applicant's waiver request, the applicant must demonstrate that they would suffer extreme hardship whether they remain in the United States or join him in Mexico.

In his letters on the record, the applicant's LPR father states that the both he and the applicant's LPR mother suffer from depression due to the applicant's inadmissibility. There is no evidence on the record regarding the severity of their depression or whether it causes the applicant's parents serious medical or other consequences. The applicant's father writes that he would like the applicant to have the opportunity to live and work in the United States, as all of his other children live here, and he would like his family to be together. Also, in a letter dated August 16, 2005, Dr. [REDACTED] writes that the applicant's mother, who is his patient, would benefit from the physical and emotional support of her entire family. There is no evidence, however, that the applicant's mother suffers from any specific condition or that she requires the applicant's presence for any medical reason. The evidence on the record does not address the possibility of the applicant's parents moving to Mexico to remain with the applicant.

U.S. 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 (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), defined extreme hardship as hardship that exceeds 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. It is also noted that the U.S. Supreme Court has held that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship. *INS v. Jong Ha Wang*, 450 U.S. 139 (1981).

The documentation on the record fails to establish the impact of the applicant's inadmissibility on his parents. Although the AAO recognizes that the applicant's parents would experience sadness as a result of continued separation from the applicant, the record does not demonstrate that their situation is different from that of other individuals separated as a result of removal or inadmissibility. Accordingly, the applicant has not proved that his parents would suffer extreme hardship if his waiver request is denied. 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 § 212(i) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* § 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.