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U.S. Citizenship  
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Services

*Handwritten initials*

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[Redacted]

FILE:

[Redacted]

Office: LOS ANGELES, CA

APR 26 2007  
Date:

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:

[Redacted]

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 District Director, Los Angeles, California 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 married to a naturalized U.S. citizen, and the mother of three U.S. citizen children. She 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 family.

The District Director 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 District Director*, dated December 2, 2004.

On appeal, the applicant contends that her spouse would suffer extreme hardship if she were removed from the United States. *Form I-290B*.

In support of these assertions the record includes, but is not limited to, an employment letter for the applicant's spouse; earnings statements for the applicant's spouse; tax statements for the applicant and her spouse; a statement from the applicant's spouse; and medical records for the applicant's son.

The Form I-290B indicates that the applicant intends to submit a brief and/or evidence to the AAO within 30 days. On December 28, 2006, the AAO contacted the applicant's counsel and asked him to resubmit any material previously provided in support of the appeal. Although counsel responded on January 23, 2007 indicating that he would overnight a copy of his brief to the AAO, this document has not been received. Accordingly, the record is now complete. All documentation has been 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 procuring admission into the United States by fraud or willful misrepresentation of a material fact by using another individual's resident alien card in 1995. *Form I-485, Application to Register Permanent Residence or Adjust Status; Form I-213, Record of Sworn Statement*. The applicant is therefore inadmissible under Section 212(a)(6)(C)(i) of the Immigration and Nationality 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 or her children would experience upon her 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 U.S. citizen spouse if the applicant is removed. Hardship to the applicant's children will be considered to the extent that it affects the applicant's spouse. 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 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 spouse travels with the applicant to Mexico, the applicant needs to establish that her spouse will suffer extreme hardship. The applicant's spouse was born in Mexico. *Form G-325A, Biographic Information sheets, for the applicant's spouse*. The parents of the applicant's spouse live in Mexico. *Id.* The record notes that the U.S. citizen son of the applicant and her spouse has heart problems and asthma, and is under medical supervision. *Statement from the applicant's spouse*, dated November 3, 2001; *Medical records for the applicant's son*. While the AAO acknowledges the health issues of the applicant's son, it notes that he is not a qualifying relative for this particular case. Furthermore, the record does not address what type of treatment he receives, whether he would be unable to obtain adequate treatment in Mexico, and how his health condition affects the applicant's spouse. The applicant's spouse states that it would be almost impossible for the applicant to get a job in Mexico due to her limited education and her absence of many years from the country. *Statement from the applicant's spouse*, dated November 3, 2001. The AAO acknowledges the assertions made by the applicant's spouse, however, it notes that the record fails to include any documentary evidence to support such 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.* Additionally, the AAO does not find that the record demonstrates that the applicant's spouse would be unable to sustain himself and contribute to his family's financial well-being in Mexico. When looking at the aforementioned factors, the AAO does not find that the applicant has demonstrated extreme hardship to her spouse if he were to reside in Mexico.

If the applicant's spouse resides in the United States, the applicant needs to establish that her spouse will suffer extreme hardship. Apart from the applicant and their children, the record does not address what family ties the applicant's spouse has in the United States. The applicant's spouse stated that he would have to pay a babysitter to take over the responsibilities of the applicant such as cooking, housework, taking the children to school and helping them with their homework. *Statement from the applicant's spouse*, dated November 3, 2001. The applicant's spouse also stated that he would have to send money to the applicant to support her, as she would be unable to get a job in Mexico. *Id.* As noted previously, the record fails to provide supporting documentation to demonstrate that the assertions made by the applicant's spouse are true regarding the applicant's inability to obtain employment in Mexico. 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)). Furthermore, the record does not address if there are other family members in the United States who could assist the applicant's spouse with some of the child-caring responsibilities. The applicant's spouse also stated that he loves his wife and would be extremely sad and fall in a deep depression if she were removed from the United States. *Id.* While the AAO acknowledges that the applicant's spouse would be affected emotionally by his wife's removal from the United States, it finds no evidence in the record from a health professional that demonstrates the effect of her removal on his physical or mental health. Accordingly, the applicant has not established that her husband's depression as a result of her removal would be beyond that normally experienced by spouses in similar situations.

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. The AAO recognizes that the applicant's spouse will endure hardship as a result of separation from the applicant. However, the record does not establish that his situation, if he remains in the United States, is different from other individuals separated as a result of removal. When looking at the aforementioned factors, the AAO does not find that the applicant demonstrated extreme hardship to her spouse if he were to reside in the United States.

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.