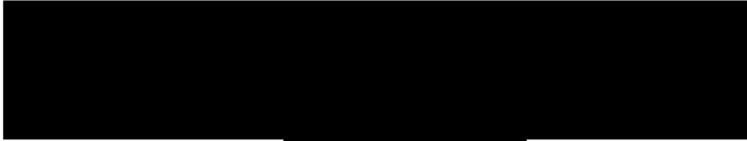


identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



HL

FILE: [REDACTED] Office: LOS ANGELES, CA Date: JAN 18 2007

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:



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, 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 (U.S.) 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 having procured admission into the United States by fraud or willful misrepresentation on January 2, 1993. The applicant is married to a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The district director concluded that the assertions provided in the affidavit of the applicant's spouse and the evidence in the record did not support a finding that the applicant's spouse would suffer extreme hardship as a result of the applicant's removal from the United States. The application was denied accordingly. *Decision of the District Director*, dated April 19, 2005.

On appeal, counsel asserts that the circumstances contributing to the potential hardship of the applicant's spouse have substantially changed since the filing of the initial waiver application. In addition, counsel submits new evidence. *Form I-290B*, dated May 19, 2005.

The record indicates that on January 2, 1993 the applicant presented a fraudulent Form I-551, Alien Registration Card, to gain entry into the United States.

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.

A section 212(i) waiver of the bar to admission resulting from section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship on a U.S. citizen or lawful permanent resident spouse and/or parent. Hardship the alien experiences due to separation is not considered in section 212(i) waiver proceedings unless it causes hardship to his or her spouse. 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).

The AAO notes that extreme hardship to the applicant's spouse must be established in the event that she resides in Mexico or in the event that she resides in the United States, as she 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.

The first part of the analysis requires the applicant to establish extreme hardship to his spouse in the event that she resides in Mexico. In her declaration, the applicant's spouse states that she has lived in the United States most of her life and that her entire immediate family resides in the United States. She states that she and her immediate family live on one parcel of land with three houses. The applicant's spouse states that she was brought to the United States by her father at 12 years old and has lived in this country since that time. She also states that she has an 11-year-old daughter from another relationship, who she raised as a single parent until she met the applicant. The daughter's father does not pay child support and is not a part of her daughter's life. The applicant and his spouse have two children together, one five-year-old daughter and one three-year-old son. The applicant's spouse also states that she has been employed in the United States for 13 years and is accruing retirement benefits. She expresses concern for the disadvantages her children would face if she relocates with them to Mexico. She states that she will not be able to find work in Mexico, that the education of her children would suffer, they would not be able to obtain medical insurance and the children would be separated from their grandparents and other family members. The applicant's spouse also states that she previously suffered from depression and is not sure whether relocating to Mexico would bring back these feelings. The AAO notes that counsel did submit documentation to support the applicant's spouse's claims regarding country conditions in Mexico, the availability of employment and the standards of education and health care. Counsel also failed to submit documentation regarding the applicant's spouse's previous bout of depression. Counsel must submit documentation to support these assertions. In this case, he has not done so. Therefore, the AAO finds that the applicant has not established that his spouse would suffer extreme hardship as a result of relocating to Mexico.

In addition, the applicant has not established that his spouse would suffer extreme hardship in the event that she remains in the United States. The applicant's spouse states that she will suffer emotionally and financially as a result of being separated from the applicant. She states that the fear of losing the applicant is causing her anxiety and stress. She also states that if the applicant were removed from the United States it would make it very difficult for her to support her children and meet her expenses. The applicant's spouse states that she works for a company called Superior Warehouse and earns approximately \$24,000 a year. The applicant's spouse also states that before she met the applicant, she suffered from depression and low self-esteem as a result of her previous relationship with her oldest daughter's father. She asserts that it was the applicant's support, love and patience, which allowed her to emerge from her state of depression. She fears that without the applicant she will sink back into her feelings of depression and loneliness. The AAO notes that the evidence submitted by counsel is not sufficient to support the spouse's claims. As stated above, counsel did not submit any documentation to support the applicant's statements regarding her previous bouts of depression. In addition, counsel did not provide evidence establishing that the applicant's spouse would not receive help and support from her immediate family. The AAO recognizes that the applicant's spouse will suffer hardship as a result of the applicant's inadmissibility, however, the current record does not reflect that this hardship rises to the level of extreme hardship.

U.S. court decisions have repeatedly held that the common results of removal 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.

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's spouse caused by the applicant's inadmissibility to the United States. 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 section 212(i) 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.