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U.S. Citizenship
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Office: CALIFORNIA SERVICE CENTER

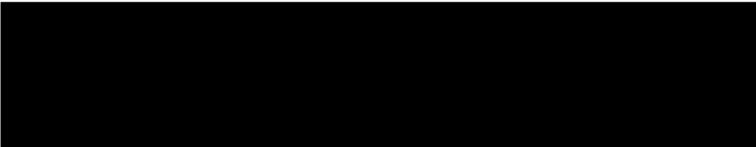
Date: **JUL 17 2007**

IN RE:



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 Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant is a native and citizen of Mexico who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for attempting to enter the United States using documents in someone else's name. The record indicates that the applicant is the son of a naturalized United States citizen and is the beneficiary of an approved Petition for Alien Relative (Form I-130). The applicant 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 his United States citizen mother and lawful permanent resident stepfather.

The Director found that the applicant failed to establish that extreme hardship would be imposed on the applicant's qualifying relatives and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Director's Decision*, dated June 7, 2006.

On appeal, the applicant, through counsel, states that the applicant's mother will suffer hardship if the applicant is removed from the United States. *Form I-290B*, filed July 6, 2006.

The record includes, but is not limited to, various medical documents on the applicant's mother's medical condition, an affidavit from the applicant's mother, and a letter of reference from the applicant's employer. The entire record was reviewed and considered in arriving at a decision on the appeal.

Section 212(a)(6)(C)(i) of the Act provides, in pertinent part, that:

- (i) 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.
- ...
- (iii) Waiver authorized.-For provision authorizing waiver of clause (i), see subsection (i).

Section 212(i) of the Act provides, in pertinent part, that:

- (i) (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 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 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...

In the present application, the record indicates that on April 5, 1991, the applicant entered the United States by presenting a document in the name of [REDACTED]. On March 7, 1996, the applicant's mother, a lawful permanent resident, filed a Form I-130 on behalf of the applicant. On September 13, 1996, the Form I-130 was approved. On September 23, 1996, the applicant's mother became a United States citizen. On March 13, 2002, the applicant filed an Application to Register Permanent Residence or Adjust Status (Form I-485). On May 22, 2006, the applicant filed a Form I-601. On June 7, 2006, the Director denied the applicant's Form I-485 and Form I-601, finding the applicant failed to demonstrate extreme hardship to his qualifying relative.

The applicant is seeking a section 212(i) waiver of the bar to admission resulting from a violation of section 212(a)(6)(C)(i) of the Act. A waiver under section 212(i) 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 himself experiences upon removal is irrelevant to section 212(i) waiver proceedings; the only relevant hardship in the present case is hardship suffered by the applicant's United States citizen 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).

In *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565-66 (BIA 1999), the Board of Immigration Appeals (BIA) provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship to a qualifying relative. The 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.

Counsel asserts that the applicant's mother would face extreme hardship if the applicant were removed to Mexico. The applicant's mother states that the applicant "is a good kid, and a good son...[she] need[s] him since [she is] a sick person. He is a great support to [her] and [her] husband. He helps with the expenses since [she cannot] due to [her] Diabetes and other medical problem[s]." *Affidavit from* [REDACTED] dated May 17, 2006. Medical documentation in the record appears to indicate that the applicant's mother has been diagnosed with diabetes, coronary artery disease, and vertigo; however, there was nothing from a doctor indicating exactly what the medical issues are, any prognosis, or what assistance is needed and/or given by the applicant. The AAO notes that there was no documentation submitted establishing that the applicant's mother could not receive treatment for her medical conditions in Mexico. Further, there is no indication that the applicant's mother has to remain in the United States to receive her medical treatments. The AAO notes that the applicant's mother is a native of Mexico, who spent all of her formative years in Mexico, she speaks Spanish, and it has not been established that she has no family in Mexico. The AAO finds that the applicant has failed to establish extreme hardship to his United States citizen mother if she accompanies him to Mexico.

In addition, counsel does not establish extreme hardship to the applicant's mother if she remains in the United States, with access to adequate health care. The applicant's mother is married and it has not been established that her husband could not help care for her. Additionally, the AAO notes that it has not been established that

the applicant helps his mother and stepfather with any expenses or that there are no other family members who reside in the United States who could not help take care of his mother. As a United States citizen, the applicant's mother is not required to reside outside of the United States as a result of denial of the applicant's waiver request. No documentation was submitted to establish that the applicant's mother would experience a major financial hardship as a result of the separation from the applicant. Additionally, the record fails to demonstrate that the applicant will be unable to contribute to his mother's financial wellbeing from a location outside of the United States. The applicant's mother's statements regarding the extreme hardship she would suffer if the applicant were not allowed to enter the United States were vague and not supported by documentation. Moreover, the United States 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 AAO, therefore, finds the applicant has failed to establish extreme hardship to his mother if she remains in the United States.

United States 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, 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 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. In *Hassan, supra*, the Ninth Circuit Court of Appeals 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 United States citizen mother will endure hardship as a result of separation from the applicant. However, her situation is typical to individuals separated as a result of removal and does not rise to the level of extreme hardship.

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's mother 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(a)(6)(C)(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.