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U.S. Citizenship  
and Immigration  
Services

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FILE:  Office: CHICAGO, IL

Date: MAR 05 2007

IN RE: 

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act (the 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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The District Director, Chicago, Illinois denied the waiver application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant, [REDACTED], entered the United States in April 1991, using a false alien registration card and applied for adjustment of status, on February 5, 2003. He was found to be inadmissible 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 seeking to procure admission into the United States by fraud or willful misrepresentation. In order to remain in the United States with his U.S. citizen (USC) spouse, [REDACTED], the applicant seeks a waiver of inadmissibility under section 212(i) of the Act, 8 U.S.C. § 1182(i).

The record reflects that Mr. [REDACTED] used a fraudulent alien registration card to enter the United States in about April 1991. As a result of this misrepresentation, the district director found the applicant to be inadmissible to the United States. *District director's decision*, dated February 14, 2005. The district director also found that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601). *Id.*

On appeal counsel submits a brief and additional documentation. The record consists of the following documents: a hardship statement from Ms. [REDACTED] a hardship statement from Mr. [REDACTED] a statement from Mr. [REDACTED] USC sister; a statement from Mr. [REDACTED] sister-in-law; several statements from family friends; a statement from the fourth grade teacher of Mr. [REDACTED] daughter; work verification letters for Mr. [REDACTED] and Ms. [REDACTED] money order receipts for the funds that Mr. [REDACTED] sends to his family in El Salvador; Ms. [REDACTED] academic transcripts; tax returns and earnings statements; family photographs; U.S. State Department Country Report on Human Rights Practices in El Salvador; Amnesty International country report for El Salvador; United Nations Commission on Human Rights, "Integration of Human Rights of Women and the Gender Perspective, Violence Against Women;" a printout from the Citizenship and Immigration Services (CIS) website regarding temporary protected status (TPS); proof of home ownership; and Ms. [REDACTED] U.S. birth certificate. The AAO reviewed the record in its entirety before reaching its 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.

A section 212(i) waiver of inadmissibility is dependent upon a showing that the bar to admission imposes an extreme hardship on the USC or LPR spouse or parent of the applicant. Hardship to the applicant himself is not a permissible consideration under the statute, nor is hardship to his USC children. Mr. [REDACTED] children are not qualifying relatives. Thus, hardship suffered by his children will be considered only insofar as it results in hardship to a qualifying relative in the application, in this case, the applicant's USC wife, Ms. [REDACTED].

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. *Matter of Cervantes-Gonzalez*, *supra* at 565 (BIA 1999). In *Matter of Cervantes-Gonzalez*, the Board of Immigration Appeals set forth a list of non-exclusive factors relevant to determining whether an applicant has established extreme hardship to a qualifying relative pursuant to section 212(i) of the Act. These factors include the presence of a lawful permanent resident or United States citizen spouse or parent in this country; the qualifying relative's family 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 health conditions, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate. *Id.* at 566. The age of the qualifying relative may be an additional relevant factor. *See Matter of Pilch*, 21 I&N 627, 630 (BIA 1996). In examining whether extreme hardship has been established, 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).

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 now turns to consider the relevant factors in the adjudication of the present case.

Counsel asserts that Ms. [REDACTED] will experience extreme hardship if Mr. [REDACTED] is compelled to depart the United States and she and their children accompany him. Counsel states that El Salvador has endured years of civil strife and going to live there would result in extreme hardship to Ms. [REDACTED] because she was born in the United States, has no ties to El Salvador, and fears for her safety in El Salvador. *Brief at 4*. The AAO notes the hardships that counsel states would confront Ms. [REDACTED] in El Salvador and the June 15, 2006 extension of TPS for Salvadoran nationals. It concludes that the applicant has established that Ms. [REDACTED] would experience extreme hardship if she were to accompany him to El Salvador.

However, the qualifying relative of a waiver applicant is not required to reside outside the United States based on the denial of a waiver request. Accordingly, Mr. [REDACTED] must also establish that Ms. [REDACTED] would experience extreme hardship in the event that she remains in the United States without him.

The record does not establish that Ms. [REDACTED] would suffer extreme hardship if she remained here and Mr. [REDACTED] went to live in El Salvador. Ms. [REDACTED] states that her daughters would suffer greatly if they were separated from their father. However, as previously indicated, the hardship experienced by the applicant's children is not directly relevant to the determination of extreme hardship under section 212(i) of the Act and counsel has submitted no evidence to demonstrate that the effect of Mr. [REDACTED] removal on his daughters would result in extreme hardship to Ms. [REDACTED].

Counsel asserts that Ms. [REDACTED] would suffer extreme hardship if Mr. [REDACTED] went to live in El Salvador and she remained in the United States without him, because she would effectively become a single parent. Single parenting, while challenging, is not sufficient to establish extreme hardship to Ms. [REDACTED]. Single parents make adjustments to their schedules to deal with their children's educational, social, and medical needs as a normal part of life. These logistical issues routinely arise when parents live apart. If Ms. [REDACTED] stays in the United States, she has established that she has a large network of family that may be able to help her with the care of her children.

Ms. [REDACTED] also indicates that if her husband were removed from the United States, it would prevent her from achieving her goals of completing her degree in social work and becoming a licensed social worker. She states that he provides her with financial support, as well as taking care of their daughters while she studies or complete assignments. Ms. [REDACTED] asserts that the applicant's removal from the United States would affect the entire family's dynamics as he pays most of the bills, including the mortgage. While the AAO acknowledges that the applicant's spouse will be faced with additional financial responsibilities and a reduced standard of living if the applicant is removed from the United States, it does not find the record to indicate that she would be unable to support herself and her daughters financially. The record contains a September 2, 2004 letter from Ms. [REDACTED] employer that reports her annual salary as being \$24,000, which establishes that, even without assistance from family members, she has, in the past, earned sufficient income to exceed the poverty guidelines for her family. *Federal Poverty Guidelines*, <http://aspe.hhs.gov/poverty/figures-fed-reg.shtml>. Therefore, the record does not support a finding of financial loss that would result in an extreme hardship to Ms. [REDACTED] if she had to support herself and her daughters without additional income from the applicant.

It is clear that Mr. [REDACTED] wife would face hardships if he returned to El Salvador and she remained in the United States. However, her situation, as described in the record, does not meet the legal standard established by Congress and subsequent case law interpreting the meaning of extreme hardship. 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) (upholding the BIA's decision in a case which addressed, *inter alia*, claims of emotional and financial hardship that Mr. [REDACTED] s deportation would cause to his spouse and children). In addition, *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), defined extreme hardship as hardship that was unusual or beyond that which would normally be expected upon deportation. *Hassan v. INS* held further, "while the claim of emotional hardship was 'relevant and sympathetic . . . it is not

conclusive of extreme hardship, and is not of such a nature which is unusual or beyond that which would normally be expected from the respondent's bar to admission." *Hassan v. INS, supra*, at 468.

In this case, although the applicant has established that Ms. [REDACTED] would suffer extreme hardship if she returned with him to El Salvador, he has failed to prove the same would be true if she remained in the United States. The record does not contain sufficient evidence to show that the hardship she faces rises beyond the common results of removal. The AAO therefore finds that the applicant has failed to establish extreme hardship to his U.S. citizen spouse as required under section 212(i) of the Act, 8 U.S.C. § 1182(i). 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.

The burden of proof in this proceeding rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

**ORDER:** The appeal is dismissed.