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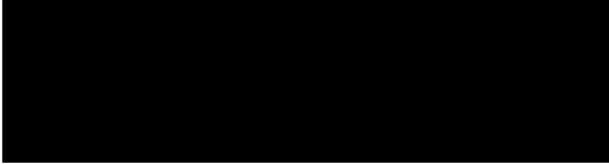
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CIUDAD JUAREZ, MX Date: MAY 03 2007

IN RE: Applicant: [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:

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 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; and the application denied.

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 having attempted to procure admission into the United States by fraud or willful misrepresentation. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The district director determined that the applicant failed to establish that a qualifying family member would suffer extreme hardship if the applicant were refused admission into the United States. The application was denied accordingly.

The applicant does not dispute the district director's finding that he is inadmissible under section 212(a)(2)(A)(i) of the Act. The applicant asserts, however, that his wife will suffer financial hardship and that his eldest son's health will suffer if he is denied admission into the United States. The applicant indicates that he will send an additional brief and/or evidence to the AAO within 30 days of filing his Form I-290B, Notice of Appeal to the AAO. However, no brief or evidence was received by the AAO.

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

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.

The record reflects that on June 18, 1999, the applicant sought admission into the United States by misrepresenting his true intent to work in the United States without authorization.

Section 212(i)(1) of the Act provides that:

The Attorney General [now Secretary, Department 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's wife is a U.S. lawful permanent resident. The applicant is thus eligible to apply for relief under section 212(i) of the Act. In *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565-66 (BIA 1999), the Board of Immigration Appeals (Board) provided a list of factors that it deemed to be relevant in determining whether an alien had established extreme hardship. The factors included 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. The Board held in *Matter of Ige*, 20 I&N Dec. 880, 882, (BIA 1994), that, "relevant [hardship] factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists."

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). In *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), the U.S. Ninth Circuit Court of Appeals defined "extreme hardship" as hardship that was unusual or beyond that which would normally be expected upon deportation. The U.S. Ninth Circuit Court of Appeals emphasized that the common results of deportation are insufficient to prove extreme hardship.

The applicant's wife indicates on appeal that she depends on her husband to support her and their two children financially. The applicant's wife indicates further that the children need their father to be present in their lives so that they will grow up healthy, and she indicates that her elder son suffers from allergies and may have health problems if the applicant's Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601) is denied.

The AAO notes that a child is not included as a qualifying relative for section 212(i) of the Act, waiver purposes. The AAO therefore cannot consider the applicant's claim of hardship to his children. Moreover, the AAO finds upon review of the totality of the evidence, that the applicant has failed to establish that his wife would suffer extreme hardship if he were denied admission into the U.S., and she remained in the United States. The record contains no evidence to illustrate the applicant's wife's financial situation, or to corroborate the assertion that the applicant supports his family financially. The AAO notes further the U.S. Supreme Court holding that, "[t]he mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship." See *INS v. Jong Ha Wang*, 450 U.S. 139 (1981).

The applicant additionally failed to establish that his wife would suffer extreme hardship if she relocated to Mexico with him. The applicant did not assert any hardship to his wife if she relocated to Mexico. Furthermore, it is noted that the applicant's wife is presumably familiar with the language and culture in Mexico, as she is originally from Mexico, and she and the applicant were married in Mexico in July 2001.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is on the applicant to establish eligibility for the benefit sought. A review of the evidence in the record, when considered in its totality, reflects that the applicant has failed to establish that his wife would suffer hardship beyond that which is normally to be expected upon removal. Accordingly, the AAO finds that the applicant has failed to establish that he is eligible for relief under section 212(i) of the Act. The present appeal will therefore be dismissed, and the application will be denied.

ORDER: The appeal is dismissed. The application is denied.