



U.S. Citizenship
and Immigration
Services

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H2

[REDACTED]

FILE:

[REDACTED]

Office: HARLINGEN, TX

Date: MAY 23 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:

[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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Harlingen, Texas. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and the application denied.

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). The applicant seeks a waiver of her ground of inadmissibility under section 212(i) of the Act, 8 U.S.C. § 1182(i).

The district director found that the applicant had 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.

On appeal the applicant asserts through counsel, that her husband will suffer extreme emotional and financial hardship if she is denied admission into the United States. The applicant asserts that her Form I-601, Application for Waiver of Ground of Inadmissibility (Form I-601 Application) should therefore be approved.

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 the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act, in that, on or about March 1, 1996, the applicant presented fraudulent documentation to U.S. Consular officials, in an attempt to obtain a U.S. border-crossing card. The applicant does not dispute the finding that she is inadmissible under section 212(a)(2)(A)(i) of the Act.

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 applicant's husband is a U.S. citizen. The applicant is thus eligible to apply for relief under section 212(i) of the Act.¹

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 it deemed relevant in determining whether an alien had established extreme

¹ It is noted that children are not included as qualifying family members for section 212(i) of the Act purposes.

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."

"Extreme hardship" has been defined as hardship that is unusual or beyond that which would normally be expected upon deportation. See *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996.) U.S. court decisions have repeatedly held that the common results of deportation (removal) or exclusion (inadmissibility) are insufficient to prove extreme hardship. See *Perez v. INS*, *supra*. See also, *Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991.)

The applicant asserts, through counsel, that her husband would miss her emotional and motherly support if they were separated, and that he and their children would move to Mexico with the applicant, if she were denied admission into this country. The applicant asserts that a move to Mexico would result in extreme emotional and financial hardship to her husband. The applicant asserts that her family would have nowhere to live in Mexico, and she asserts that her husband would lose the home and vehicle that they own in the United States, and that he would be separated from his family in the United States if he moved to Mexico with the applicant.

To support her assertions, the applicant submits affidavits from her husband and herself. The applicant also submits home mortgage and utility bills, and vehicle loan information. In their affidavits, the applicant and her husband [REDACTED] assert that: 1) it would be difficult to earn a living in Mexico; 2) they would lose their home and lifestyle and have to start out new in Mexico; 3) [REDACTED] has strong and close family ties in the United States; 4) [REDACTED] wants to reside in the United States and fulfill his dream of raising his family in the United States.

Upon review of the totality of the evidence, the AAO finds that the applicant has failed to establish that her husband would suffer extreme hardship if she were denied admission into the United States, and he moved with her to Mexico. The record contains no evidence to corroborate the assertion that the applicant and her husband would be unable to earn a living in Mexico. 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). Moreover, the U.S. Ninth Circuit Court of Appeals held in *Ramirez-Durazo v. INS*, 794 F.2d 491, 498 (9th Cir. 1986), that hardship involving a lower standard of living, difficulties of readjustment to a different culture and environment and reduced job opportunities, did not rise to the level of "extreme hardship." It is additionally noted that distress from being unable to reside close to family in the United States is not the type of hardship that is considered extreme. See *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996) (holding that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship.)

The applicant also failed to establish that her husband would suffer extreme hardship if she is denied admission into the United States and he remained in the United States. The record reflects that the applicant's husband has been the financial supporter in the family, and the record contains no evidence to

indicate or establish that the applicant's husband would suffer extreme financial hardship if the applicant were denied admission into the United States. The applicant additionally failed to demonstrate that her husband would suffer emotional hardship beyond that commonly associated with removal if she were denied admission into the United States.

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 her husband would suffer extreme hardship if she is denied admission into the United States. The appeal will therefore be dismissed, and the application will be denied.

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