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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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FILE

Office: LOS ANGELES, CA

Date: SEP 20 2007

IN RE: Applicant:



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 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, pursuant to the record, attempted entry to the United States on February 11, 1989 by presenting, to the port of entry officer, a fraudulent Form I-94, Temporary Resident Alien Receipt card. The applicant admitted that she was not a resident alien and that the Form I-94 card had been purchased. 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.

Based on the evidence in the record, the applicant is inadmissible pursuant to section 212(a)(6)(C)(i) of the Act.

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 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...

Moreover, the district director concluded that that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Ground of Excludability (Form I-601) accordingly. *Decision of the District Director*, dated November 28, 2005.

In support of this appeal, the applicant submits the following documents: a letter from the applicant's spouse, a lawful permanent resident; a letter from the applicant; medical results regarding the applicant's spouse's medical condition; and a note from the applicant's spouse's physician, confirming the applicant's spouse's medical condition and detailing the date of the next medical appointment. The entire record was reviewed and considered in rendering this decision.

*Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565-566 (BIA 1999) provides a list of factors the Board of Immigration Appeals deems relevant in determining whether an alien has established extreme hardship. 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 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.

This matter arises in the Los Angeles district office, which is within the jurisdiction of the Ninth Circuit Court of Appeals. That court has stated, "the most important single hardship factor may be the separation of the alien from family living in the United States," and also, "[w]hen the BIA fails to give considerable, if not predominant, weight to the hardship that will result from family separation, it has abused its discretion." *Salcido-Salcido v. INS*, 138 F.3d 1292, 1293 (9th Cir. 1998) (citations omitted). See also *Cerrillo-Perez v. INS*, 809 F.2d 1419, 1424 (9th Cir. 1987) (remanding to the Board of Immigration Appeals (BIA)) ("We have stated in a series of cases that the hardship to the alien resulting from his separation from family members may, in itself, constitute extreme hardship.") (citations omitted). Separation of family will therefore be given the appropriate weight under Ninth Circuit law in the assessment of hardship factors in the present case.

To begin, the applicant's spouse, a lawful permanent resident, states "...We share a bond of love that has grown within the years of our marriage. Our love and commitment to each other is one that I don't know what I would do the day we have to be separated. I have lost my appetite and feel so sick of the thoughts of us having to be away from each other...We have always supported each other and have worked and strived so hard to obtain what we have today. I can say that we share this bond and we really need each other...I have been feeling depressed, sick since this notice. It has brought even psychological effects on my health..." Letter from [REDACTED] dated December 13, 2005. There is no documentation establishing that the applicant's spouse's financial, emotional or psychological hardship is any different from other families separated as a result of immigration violations. Moreover, no objective evidence is provided to corroborate the applicant's spouse's statements regarding his mental state, such as statements from a professional in the medical field documenting that the applicant's spouse is suffering from a medical condition due to the applicant's immigration situation. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The AAO recognizes that the applicant's spouse will endure hardship as a result of separation from the applicant. However, his situation, if he remains in the United States, is typical to individuals separated as a result of deportation or exclusion and does not rise to the level of extreme hardship based on the record. 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). 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.

The applicant's spouse further states that he suffers from diabetes and hypertension disease. He states that the applicant "...has been there for me at all times. I don't know how I would cope with this on my own without

her..." *Id.* at 1. The applicant's spouse provides medical results from an August 30, 2005 blood draw and a letter from the Santa Barbara County Public Health Department. The letter states that the applicant's spouse "...is a diabetic with hypertension. He has an appointment to see his doctor on January 10, 2006." *Letter from Santa Barbara County Public Health Department*, dated December 2, 2005. No evidence has been provided to establish what specific treatment the applicant's spouse is undergoing due to his medical conditions, and what hardship the applicant's spouse will face without the applicant's presence. Although the applicant's spouse may need to make alternate arrangements with respect to his own medical care were the applicant removed, it has not been established that such arrangements would cause the applicant's spouse extreme hardship.

The AAO notes that extreme hardship to a qualifying relative must be established in the event that he or she accompanies the applicant or in the event that he or she remains in the United States, as a qualifying relative is not required to reside outside of the United States based on the denial of the applicant's waiver request. In this case, the applicant has not asserted any reasons why the applicant's spouse is unable to relocate to Mexico, his birth country, to accompany the applicant were she removed.

As such, a review of the documentation in the record, when considered in its totality, reflects that the applicant has failed to show that her lawful permanent resident spouse would suffer extreme hardship if she were not permitted to remain in the United States, and moreover, the applicant has failed to show that her lawful permanent resident spouse would suffer extreme hardship were he to relocate to Mexico to accompany the applicant. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether the applicant 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. 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.