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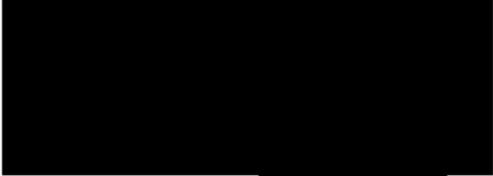
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

APR 08 2008

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 Form I-601, Application for Waiver of Grounds of Inadmissibility (I-601 Application) was denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and the I-601 application will be denied.

The applicant is a native and citizen of the Dominican Republic 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 procured admission into the United States by fraud or willful misrepresentation. The applicant presently seeks a waiver of his ground of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The district director determined 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 I-601 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 indicates on appeal, however, that his wife, two U.S. citizen children, and his immediate family members will suffer extreme hardship 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. The AAO will therefore issue a decision based on the record as it is presently constituted.

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 presented a false passport to U.S. immigration officials in order to gain admission into the United States. The applicant is therefore inadmissible under section 212(a)(6)(C)(i) of the Act.

Section 212(i) of the Act provides that:

(1) 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 contains a certificate of naturalization reflecting that the applicant's father became a naturalized U.S. citizen on June 30, 1995. The applicant's father is thus a qualifying relative for section 212(i) of the Act extreme hardship purposes. The record contains no evidence to establish that the applicant is married to a

U.S. citizen or lawful permanent resident. The AAO notes further that, although the record contains birth certificates establishing that the applicant has two U.S. citizen children, a U.S. citizen or lawful permanent resident child is not a qualifying relative for section 212(i) of the Act extreme hardship purposes. Hardship to the applicant's children may therefore only be considered insofar as it relates directly to hardship experienced by the applicant's father.

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 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."

"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). Court decisions have repeatedly held that the common results of deportation or exclusion [now removal or inadmissibility] are insufficient to prove extreme hardship. See *Perez, supra*. See also, *Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991). For example, the U.S. Supreme Court held in *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship. In *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), the Board held that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship. The U.S. Ninth Circuit Court of Appeals held further 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.

In the present matter, the evidence relating to the applicant's father's () extreme hardship claim consists solely of 's June 30, 1995 naturalization certificate. The applicant's appeal statement does not mention or discuss hardship that his father would suffer if the applicant were denied admission into the United States. Furthermore, the record contains no information or evidence relating to any hardship that would suffer if the applicant's I-601 application were denied.

The AAO finds, upon review of the totality of the evidence, that the applicant has failed to present evidence to establish that his father would suffer hardship, either in the United States or in the Dominican Republic, that goes beyond that normally associated with removal, if the applicant is denied admission into the United States.

A section 212(i) of the Act waiver of inadmissibility is dependent first upon a showing that the bar to admission imposes an extreme hardship on a qualifying family member. If extreme hardship is established, the Secretary then assesses whether an exercise of discretion is warranted. Because the applicant failed to establish that his father would suffer extreme hardship if the applicant is denied admission into the United

States, the AAO finds that it is unnecessary to address whether discretion should be exercised in the present matter.

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 father would suffer extreme hardship if the applicant is denied admission into the United States. 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 I-601 application will be denied.

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