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

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **AUG 07 2008**

IN RE: Applicant: [REDACTED]

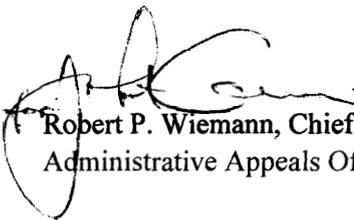
APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i).

ON BEHALF OF APPLICANT:



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 waiver application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of India who was found to be inadmissible to the United States 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 a visa, other documentation, or admission into the United States or other benefit provided under the Act 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), in order to remain in the United States and reside with his U.S. citizen wife.

The director concluded 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 Excludability (Form I-601) accordingly. *Decision of the Director*, dated April 25, 2006.

On appeal, counsel for the applicant contends that the applicant's wife will suffer extreme hardship if the applicant is prohibited from remaining in the United States. *Brief from Counsel*, dated May 8, 2006.

The record contains a brief from counsel in support of the appeal; statements from the applicant's wife and friends; a copy of the applicant's marriage certificate; a copy of the applicant's wife's naturalization certificate; a copy of the applicant's passport; a copy of the applicant's tax records; copies of documentation in connection with the applicant's and his wife's purchase of a home, and; a Form I-864, Affidavit of Support, executed by the applicant's wife on behalf of the applicant. The entire record was reviewed and considered in rendering this 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.

The record reflects that the applicant entered the United States using the passport of another individual, thus he misrepresented his true identity to gain entry to the United States. Accordingly, the applicant attempted to enter the United States by fraud, and made a willful misrepresentation of material facts in order to procure an immigration benefit (entry to the United States.) The applicant was found to be inadmissible to the United

States under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i). The applicant does not contest his inadmissibility on appeal.

A section 212(i) waiver of the bar to admission resulting from a violation of section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship to the citizen or lawfully resident spouse or parent of the applicant. Hardship the alien himself experiences upon deportation is irrelevant to section 212(i) waiver proceedings; the only relevant hardship in the present case is hardship suffered by the applicant's U.S. citizen wife. Once extreme hardship is established, it is but one favorable factor to be considered in the determination of whether the Secretary should exercise favorable discretion. *See Matter of Mendez*, 21 I&N Dec. 296 (BIA 1996).

*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 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 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.

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).

On appeal, counsel for the applicant contends that the applicant's wife will experience extreme hardship should the present waiver application be denied. *Brief in Support of Appeal*, dated May 8, 2006. Counsel states that the applicant and his wife depend on each other, and that they purchased a home. *Id.* Counsel explained that the applicant's wife is suffering from emotional consequences due to the applicant's possible deportation. *Id.* Counsel stated that the applicant's wife depends on the applicant for personal and business reasons. *Id.* Counsel asserts that the applicant is not inadmissible on other grounds. *Id.*

The applicant's wife indicated that she is close with the applicant, and that she will experience serious emotional consequences if she is separated from him. *Statement from the Applicant's Wife*, dated May 15, 2006. The applicant's wife further provided that she would experience financial consequences if the applicant departs the United States. *Id.* The applicant provided statements from two of his friends who attest that the applicant's wife will experience emotional consequences if she is separated from the applicant. *Statements from Applicant's Friends*, dated May 15, 2006.

Upon review, the applicant has not established that his wife will experience extreme hardship if he is prohibited from remaining in the United States. Counsel and the applicant's wife assert that the applicant's wife will experience financial hardship should the applicant depart the United States. However, the record contains no documentation or explanation to show that the applicant's wife relies on the applicant for economic assistance. In fact, the record contains tax records for the applicant and his wife for 2001, 2003, 2004, and 2005, all of which indicate that the applicant is unemployed. The applicant has not submitted any

evidence that he has been employed in the United States. Nor has he provided any explanation or documentation to show that he has other financial resources with which he assists his wife. Thus, the record does not support a finding that the applicant's wife would experience economic hardship should the applicant depart the United States.

Counsel, the applicant's wife, and the applicant's friends assert that the applicant's wife will experience significant emotional hardship if she is separated from the applicant. The AAO recognizes that the applicant's wife will endure hardship as a result of separation from the applicant should she remain in the United States. However, the applicant has not provided detailed explanation or documentation of his wife's potential emotional hardship sufficient to show that she will experience hardship that is greater than that which would typically be expected of individuals separated as a result of deportation or exclusion. 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. Thus, the applicant has not shown that his wife will experience emotional hardship that constitutes extreme hardship.

It is noted that the applicant's wife may relocate abroad with the applicant in order to prevent separation. The applicant has not submitted any evidence or explanation to support that his wife would experience extreme hardship should she join the applicant when he departs from the United States.

Based on the foregoing, any emotional or financial hardship that will be experienced by the applicant's wife should the applicant be prohibited from remaining in the United States does not rise to the level of extreme hardship. 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.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(6)(C) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* 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.