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[Redacted]

FILE: [Redacted] Office: CIUDAD JUAREZ, MX Date: **AUG 25 2008**  
(Related: CDJ 2004 775 390)

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 Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601) 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 Form I-601 will be 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), for having sought to procure admission into the United States by fraud or willful misrepresentation. The applicant seeks a waiver of her ground of inadmissibility under section 212(i) of the Act, 8 U.S.C. § 1182(i).

The officer in charge determined that the applicant had failed to establish a qualifying family member would suffer extreme hardship if the applicant were refused admission into the United States. The Form I-601 was denied accordingly.

The applicant asserts on appeal that she, her husband, and her child will suffer extreme hardship if the applicant is denied admission into the United States.

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 in August 2002, the applicant attempted to obtain a U.S. visa by presenting altered documents to U.S. Consular officials in Guadalajara, Mexico. 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 applicant's husband [REDACTED] is a U.S. citizen. He is thus a qualifying relative for purposes of section 212(i) of the Act. It is noted that a U.S. citizen or lawful permanent resident child is not a qualifying relative for section 212(i) of the Act. Hardship to a child may therefore only be considered to the extent that it causes hardship to the qualifying relative.

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. *Perez v. INS*, 96 F.3d 390 (9<sup>th</sup> Cir. 1996). Court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. *Perez v. INS, supra*. See also, *Hassan v. INS*, 927 F.2d 465, 468 (9<sup>th</sup> 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 (9<sup>th</sup> 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.

The record contains the following evidence pertaining to the applicant's extreme hardship claim:

A December 14, 2005, letter signed by [REDACTED] indicating that his two year old daughter was born in Mexico, and that she is growing up without a father's love because she lives with her mother in Mexico. [REDACTED] states that his daughter will live with her mother until she is eighteen, and that she will be denied superior health, education, and financial benefits available in the United States if the applicant is denied admission into the United States. [REDACTED] states further that most of the applicant's family is either in the United States, or immigrating to the United States, and he states that his wife and daughter will soon be without family and a support group if they remain in Mexico.<sup>1</sup> [REDACTED] additionally states that the applicant will be denied access to an education and better job prospects in the United States, if she is denied admission into this country.

The record contains no other extreme hardship evidence.

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<sup>1</sup> The record reflects that the applicant's father became a naturalized U.S. citizen on July 30, 2004, and that her mother and two brothers are petitioning to immigrate to the United States.

The AAO finds, upon review of the of the evidence, that the applicant has failed to establish that her husband would suffer hardship beyond that ordinarily associated with removal or exclusion, if he remained in the U.S. without the applicant, or if he moved with his family to Mexico.

The letter written by [REDACTED] discusses hardship that the applicant and her daughter would experience if the applicant were denied admission into the United States. The AAO notes that neither the applicant, nor her daughter are qualifying family members under section 212(i) of the Act, and the letter fails to assert any hardship that the qualifying family member, [REDACTED], would suffer. Furthermore, the letter fails to indicate or establish that hardship suffered by the applicant and her daughter would cause [REDACTED] to experience extreme hardship. The applicant therefore failed to establish that her husband would suffer hardship beyond that normally experienced upon the removal of a family member if she were denied admission into the United States and he remained in the U.S., or if he moved to Mexico.

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 her husband would suffer extreme hardship if she were 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. The applicant has failed to meet her burden of proof in the present matter. The appeal will therefore be dismissed and the Form I-601 application will be denied.

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