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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: VIENNA, AUSTRIA Date: NOV 04 2004

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Officer in Charge, Vienna, Austria, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Poland 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 having sought to procure admission into the United States by fraud or willful misrepresentation on April 2, 1999. The applicant is the beneficiary of an approved Petition for Alien Relative filed by his mother, a U.S. citizen who resides in New Jersey. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The Officer in Charge concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the application accordingly.

On appeal, the applicant states that he did not intend to lie to the immigration inspector who interviewed him when he attempted to make his last entry into the United States. He writes that he misunderstood the inspector's question regarding the number of previous visits he had made to the United States. The AAO notes, however, that the applicant's sworn statement taken during that interview indicates no ambiguity with regard to the inspector's question. In addition, the notes from the consular interview on September 19, 2002 indicate that the applicant admitted lying to the inspector. The applicant's assertion on appeal that he did not attempt to mislead the immigration inspector, thus, carries no weight in these proceedings. On appeal, the applicant also states that his economic situation is difficult, and that he would like to immigrate to the United States in order to improve his family's standard of living.

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.

Section 212(i) of the Act provides that a waiver of the bar to admission resulting from section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member. Once extreme hardship is established, it is but one favorable factor to be considered in the

determination of whether the Secretary should exercise discretion. *See Matter of Mendez,* 21 I&N Dec. 296 (BIA 1996).

In the present case, in order for the applicant to qualify for a section 212(i) waiver of inadmissibility, he must demonstrate extreme hardship to his U.S. citizen mother. The applicant's own financial situation is not a factor in this determination. Referring to numerous court decisions that interpreted the term "extreme hardship" for waiver and suspension of deportation purposes, the Board of Immigration Appeals has outlined the following factors it has deemed relevant to determining extreme hardship to a qualifying relative in section 212(i) waiver cases:

> The factors deemed relevant in determining extreme hardship to a qualifying relative include, but are not limited to, the following: the presence of lawful permanent resident or United States citizen family ties to 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 to such countries; the financial impact of departure from this country; and finally, significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate.

Cervantes-Gonzalez, 22 I&N Dec. 560 (BIA 1999) at 565-566.

In the present case, the record reflects that the applicant is from Poland and that his wife and children continue to reside in that country. His mother is originally from Poland and is a naturalized U.S. citizen. According to the evidence on the record, the applicant's two brothers and two sisters also live in the United States. The applicant's mother stated that she wishes the applicant to join his siblings in the United States so that the family may once again live together. The record contains no evidence regarding any specific health concerns, financial problems, or any other areas of particular vulnerability in connection with the applicant's mother's current situation. Moreover, on appeal, the applicant fails to address the Officer in Charge's finding that the applicant's mother would not face extreme hardship should the applicant not be permitted to enter the United States.

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.

A review of the documentation in the record, when considered in its totality reflects that the applicant has failed to show that his U.S. citizen mother would suffer extreme hardship due to his inadmissibility. 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.