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**JUL 07 2006**

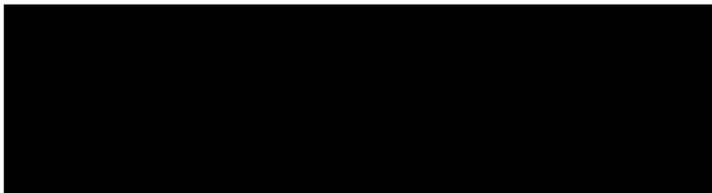
IN RE:



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.

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, CA 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 was found to be inadmissible to the United States (U.S.) 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 attempted to procure admission into the United States by fraud or willful misrepresentation on September 11, 1996. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i) in order to reside in the United States with U.S. citizen wife and children.

The district director concluded that the assertions in the applicant's affidavit and evidence in the record do not support a finding of extreme hardship. The application was denied accordingly. *District Director's Decision*, dated December 3, 2004.

On appeal, the applicant submits a revised psychological report and asserts that based on this evidence he has established that his spouse will suffer extreme hardship as a result of his inadmissibility. *Brief from the applicant*, dated January 29, 2005.

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 indicates that on September 11, 1996 the applicant presented a temporary permanent residence card (Form I-551) that did not belong to him in an attempt to gain entry into the United States. 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. Hardship the alien himself experiences due to separation is irrelevant to section 212(i) waiver proceedings unless it causes hardship to the applicant's spouse. 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).

The AAO notes that extreme hardship to the applicant's spouse must be established in the event that she resides in Mexico or in the event that she resides in the United States, as she is not required to reside outside

of the United States based on the denial of the applicant's waiver request. The AAO will consider the relevant factors in adjudication of this case.

The first part of the analysis requires the applicant to establish extreme hardship in the event that his spouse remains in the United States. The applicant submits a psychological report to support the assertion that the applicant's spouse will suffer emotionally as a result of his inadmissibility. The psychological report was completed by [REDACTED], a registered psychologist. [REDACTED] interviewed the applicant and his spouse on June 10, 2004 and then performed a re-evaluation on January 19, 2005. The initial report done on June 10, 2004 states that the applicant's spouse is suffering from stress, worry, sleep disturbance and some memory impairment. During the spouse's re-evaluation [REDACTED] states that the applicant's spouse was visibly more distressed. She was sad, frightened and anxious. The applicant's spouse stated that she is experiencing increased worry and sleep disturbance. She cries on a daily basis and has problems completing tasks around the house. In addition, she is experiencing an increase in problems with concentrating and short-term memory. [REDACTED] concludes that in the initial evaluation the applicant's spouse was more optimistic and this optimism caused her to minimize her feelings and now that she realizes the seriousness of the likelihood of her husband being removed, she is experiencing greater distress in all areas of her life. [REDACTED] states that when the applicant's spouse's initial results from the Minnesota Multiphasic Personality Inventory (MMPI-2), showed she had no psychological or emotional problems at a significant level, they were not valid because she was minimizing her feelings. During her re-evaluation the applicant's spouse completed a Beck Depression Inventory and a Beck Anxiety Inventory. [REDACTED] states that the spouse's scores on these instruments indicate that she is experiencing symptoms of severe anxiety and severe depression. [REDACTED] recommends family therapy to help with this condition. Because the applicant's spouse has been found to be suffering from severe depression and severe anxiety as a result of the applicant's inadmissibility, the AAO finds that she has established that she would suffer extreme hardship if the applicant was removed.

However, the applicant has not established that his wife would suffer extreme hardship as a result of relocating to Mexico. The applicant's spouse states that her entire family lives in the United States. The applicant's spouse makes no other assertions regarding this prong of the analysis. Therefore, the record does not reflect that relocation will result in extreme hardship to the applicant's spouse.

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 fails to establish the existence of extreme hardship to the applicant's spouse caused by the applicant's inadmissibility to the United States. 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)(9)(B) 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.