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U.S. Citizenship and Immigration Services

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JUL 31 2007

FILE: [redacted] Office: PHOENIX, ARIZONA Date:

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:

[redacted]

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 Acting District Director, Phoenix, Arizona, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant, [redacted] 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 seeking admission into the United States 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). The Acting District Director denied the waiver application, finding the applicant failed to establish extreme hardship to a qualifying relative. *Decision of the Acting District Director*, dated September 23, 2005. Counsel submitted a timely appeal and additional evidence.

The AAO will first address the finding of inadmissibility pursuant to section 212(a)(6)(C)(i) of the Act.

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.

The elements of a material misrepresentation are set forth in *Matter of S- and B-C-*, 9 I&N Dec. 436 (BIA 1960; AG 1961) as follows:

> A misrepresentation made in connection with an application for visa or other documents, or with entry into the United States, is material if either:
>
> 1. the alien is excludable on the true facts, or
> 2. the misrepresentation tends to shut off a line of inquiry which is relevant to the alien's eligibility and which might well have resulted in a proper determination that he be excluded.

The record conveys that in a sworn statement the applicant admitted that he attempted to enter the United States in 1993 or 1994 at the port of entry in Nogales, Arizona, by presenting a border crossing card that did not belong to him; and in 1994 he attempted to enter at the same port of entry by falsely claiming to be a U.S. citizen. *Record of Sworn Statement.* These acts of fraud and willful misrepresentation of a material fact render the applicant inadmissible under section 212(a)(6)(C)(i) of the Act.

The AAO will now address the finding that the grant of a waiver of inadmissibility is not warranted.

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.

A section 212(i) waiver of the bar to admission resulting from 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 to the applicant and his children is not a permissible consideration under the statute and will be considered only to the extent that it results in hardship to a qualifying relative. The qualifying relative in the present case is the applicant's wife, Ms. Astrid Inclan, who is a naturalized citizen of the United States. 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).

"Extreme hardship" is not a definable term of "fixed and inflexible meaning"; establishing extreme hardship is "dependent upon the facts and circumstances of each case." *Matter of Cervantes-Gonzalez,* 22 I&N Dec. 560, 565 (BIA 1999). The Board of Immigration Appeals (BIA) in *Matter of Cervantes-Gonzalez* lists the factors it considers relevant in determining whether an applicant has established extreme hardship pursuant to section 212(i) of the Act. The 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. *Id.* at 565. The BIA indicated that these factors relate to the applicant's "qualifying relative." *Id.* at 565-566.

In *Matter of O-J-O-,* 21 I&N Dec. 381, 383 (BIA 1996), the BIA stated that the factors to consider in determining whether extreme hardship exists "provide a framework for analysis," and that the "[r]elevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists." It further stated that "the trier of fact must consider the entire range of factors concerning hardship in their totality" and then "determine whether the combination of hardships takes the case beyond those hardships ordinarily associated with deportation." (citing *Matter of Ige*, 20 I&N Dec. 880, 882 (BIA 1994).

Applying the *Cervantes-Gonzalez* factors here, extreme hardship to the applicant's wife must be established in the event that she joins the applicant; and in the alternative, that she remains in the United States. A qualifying relative is not required to reside outside of the United States based on the denial of the applicant's waiver request.

The record contains a clinical assessment by [redacted] MA, CSAC; employment verification letters; information about the applicant's business and licenses; letters about the applicant's character; a real estate license; birth certificates of the applicant's children [redacted] is 12 years old and [redacted] is 4 years old); a marriage license; a letter from [redacted] Conners Questionnaires; income tax records; and other documents.

The February 7, 2004 assessment by [redacted], MA, CSAC, describes the consequences of deportation on the Inclan family. She also conveys the following. The [redacted] adjust their work schedule so that one of them cares for the children. The Inclans state that their eldest child, Johannie, is in the third grade

and is an A and A+ student; however, he has difficulties in some areas, as shown in the four Conners Questionnaires. Although she did not assess the Inclans' son, in her opinion he meets the criteria for Attention Deficit Disorder (ADD). She encourages an evaluation for medication, and believes that [redacted] may have emotional and/or learning disabilities. The parents state that Johannie is a non-Spanish writer and a limited Spanish reader and speaker. [redacted] states that his mother, father, sister, and brother-in-law live in Los Mochis Sinaloa, Mexico. His father is in a nursing home and his mother lives with his sister and brother-in-law; he helps support them because they struggle to make ends meet. [redacted] conveys that he has few contacts to help him find work in Mexico, where employment opportunities are limited. [redacted] states that the local schools in Los Mochis Sinaloa are in dilapidated structures, houses are unsafe and substandard, medical care is expensive. He states that families struggle to put food on the table, so education is not a priority. [redacted] conveys that he has been in two car accidents, one of which was serious, causing pain and creating physical limitations and emotional trauma. [redacted] is very concerned about her husband's immigration situation, and meets the criteria for a Depressive Disorder and an Anxiety Disorder. [redacted] doctor states that [redacted] fits the criteria for Level 3 Obesity.

The letter, dated January 8, 2004, from [redacted] states that [redacted] fits the criteria for level 3 obesity.

To establish extreme hardship to his wife, [redacted] cites to *Matter of Recinas*, 23 I&N Dec. 467 (BIA 2002); *Matter of Andazola*, 23 I&N Dec. 319 (BIA 2002); *Matter of Monreal*, 23 I&N Dec. 56 (BIA 2001); Matter of Piggott, 15 I&N Dec. 129 (BIA 1974); *Matter of Gee*, 11 I&N Dec. 639 (BIA 1966); and *Matter of O-J-O*, 21 I&N Dec. 381 (BIA 1996).

The case under consideration here arises within the jurisdiction of the Ninth Circuit Court of Appeals; decisions from that jurisdiction will be accorded appropriate weight in rendering this decision.

The Ninth Circuit has stated that "the most important single hardship factor may be the separation of the alien from family living in the United States," and also, "[w]hen the BIA fails to give considerable, if not predominant, weight to the hardship that will result from family separation, it has abused its discretion." *Salcido-Salcido v. INS,* 138 F.3d 1292, 1293 (9th Cir. 1998) (citations omitted); *Cerrillo-Perez v. INS,* 809 F.2d 1419, 1424 (9th Cir. 1987) (remanding to BIA) ("We have stated in a series of cases that the hardship to the alien resulting from his separation from family members may, in itself, constitute extreme hardship.") (citations omitted).

However, the fact that an applicant has children born in the United States is not sufficient, in itself, to establish extreme hardship. The general proposition is that the mere birth of a deportee's child who is a U.S. citizen is not sufficient to prove extreme hardship. The BIA has held that birth of a U.S. citizen child is not per se extreme hardship. *Matter of Correa*, 19 I&N Dec. 130 (BIA 1984). In *Marquez-Medina v. INS*, 765 F.2d 673 (7th Cir. 1985), the Seventh Circuit has stated that an illegal alien cannot gain a favored status merely by the birth of a citizen child. The Ninth Circuit has found that an alien illegally present in the United States cannot gain a favored status merely by the birth of his citizen child. *Lee v. INS*, 550 F.2d 554 (9th Cir. 1977). In a per curiam decision, *Banks v. INS*, 594 F.2d 760 (9th Cir. 1979), the Ninth Circuit found that an alien, illegally within this country, cannot gain a favored status on the coattails of his (or her) child who happens to have been born in this country.

Furthermore, in *Hassan v. INS,* 927 F.2d 465, 468 (9th Cir. 1991), the Ninth Circuit upheld the BIA's finding that deporting the applicant and separating him from his wife and child was not conclusive of extreme hardship as it "was not of such a nature which is unusual or beyond that which would normally be expected from the respondent's bar to admission." (citing *Patel v. INS,* 638 F.2d 1199, 1206 (9th Cir.1980) (severance of ties does not constitute extreme hardship). The Ninth Circuit in *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.

There is insufficient evidence in the record to establish that the applicant's wife would endure extreme hardship if the waiver application is denied and she remains in the United States.

The record contains no evidence suggesting that [redacted] earnings are necessary to meet monthly household expenses of his family. The applicant submitted only the first page of the federal income tax record for the years 2000, 2001, 2002, 2003, and 2004; those pages do not provide the individual earnings of the Inclans. The record has no documentation of the family's household expenses. The submitted evidence is therefore insufficient to show Mr. Inclan's earnings are required to support the family. Furthermore, courts in the United States have universally held that economic detriment alone is insufficient to establish extreme hardship. *See, e.g., INS v. Jong Ha Wang,* 450 U.S. 139, 144 (1981) (upholding BIA finding that economic loss alone does not establish extreme hardship) and *Mejia-Carrillo v. United States INS,* 656 F.2d 520, 522 (9th Cir. 1981) (economic loss alone does not establish extreme hardship, but it is still a fact to consider).

Although the input of a mental health professional is respected and valuable, the AAO notes that the submitted assessement is based on a single interview between [redacted] and [redacted] The record fails to reflect an ongoing relationship between a mental health professional and the applicant's spouse or any history of treatment for a Depressive Disorder or an Anxiety Disorder. Moreover, the conclusions reached in the submitted evaluation, being based on a single interview, do not reflect the insight and elaboration commensurate with an established relationship with [redacted], thereby rendering her findings speculative and diminishing the assessment's value to a determination of extreme hardship.

Furthermore, the AAO is not persuaded by [redacted]'s opinion that [redacted] has ADD or a learning disability. There is no documentation in the record from a pediatrician or a licensed specialist who is qualified to diagnose ADD and/or other learning disabilities.

The Inclan family is very concerned about separation. The AAO is mindful of and sympathetic to the emotional hardship that is undoubtedly endured as a result of separation from a loved one. It has taken into consideration and carefully reviewed the record. After careful consideration, it finds that the situation of the applicant's wife, if she remains the United States, is typical to individuals separated as a result of deportation or exclusion and does not rise to the level of extreme hardship as defined by the Act. The record before the AAO is insufficient to show that the emotional hardship to be endured by the applicant's wife is unusual or beyond that which is normally to be expected upon deportation. *See Hassan and Perez, supra.* The factors needed to categorize hardship as extreme are unfortunately not present in this case.

The AAO will now consider whether Ms. Inclan would endure extreme hardship if she joined her husband in Mexico.

The conditions in Mexico, the country where [redacted] would live if she joined the applicant, are a relevant hardship consideration. While political and economic conditions in an alien's homeland are relevant, they do not justify a grant of relief unless other factors such as advanced age or severe illness combine with economic detriment to make deportation extremely hard on the alien or his qualifying relatives. *Matter of Ige*, 20 I&N Dec. 880 (BIA 1994)(citations omitted).

[redacted] indicates that his wife would suffer if she saw her children living in Mexico, where employment opportunities are limited, housing is substandard, medical care is expensive, and families struggle to survive. He states that that his wife would not find employment in real estate in Mexico. To establish extreme hardship, Mr. Inclan relies on the BIA decisions of *Matter of Recinas*, 23 I&N Dec. 467 (BIA 2002); *Matter of Andazola,* 23 I&N Dec. 319 (BIA 2002); *Matter of Monreal,* 23 I&N Dec. 56 (BIA 2001); *Matter of Piggott,* 15 I& N Dec. 129 (BIA 1974); *Matter of Gee,* 11 I&N Dec. 639 (BIA 1966); and *Matter of O-J-O-*, 21 I&N Dec. 381 (BIA 1996).

In *Matter of Recinas*, the factors considered by the BIA in assessing the hardship to the respondent's children include the heavy burden imposed on the respondent to provide the sole financial and familial support for her six children if she is deported to Mexico, the lack of any family in her native country, the children's unfamiliarity with the Spanish language, and the unavailability of an alternative means of immigrating to the United States. The BIA found that the respondent had established eligibility for cancellation of removal under section 240A(b) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(b) (2002), because she demonstrated that her United States citizen children, who are 12, 11, 8, and 5 years old, will suffer exceptional and extremely unusual hardship upon her removal to her native country.

Assessing hardship in *Matter of Andazola,* the BIA considered "the poor economic conditions and diminished educational opportunities in Mexico" and the fact that the "respondent is unmarried and has no family in that country to assist in their adjustment upon her return." The BIA stated that the respondent did not establish eligibility for cancellation of removal under section 240A(b) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(b) (2000), because she failed to demonstrate that her 6- and 11-year-old United States citizen children will suffer exceptional and extremely unusual hardship upon her removal to Mexico. The BIA further stated "we believe that, were this a suspension of deportation case, where only "extreme hardship" must be shown, we might well grant relief."

The AAO finds that the facts presented in the instant case are distinguishable from those in *Matter of Recinas* and *Matter of Andazola.* [redacted] is not like the unmarried respondents in *Matter of Recinas* and *Matter of Andazola* who will be entirely responsible for their children's emotional and financial support in Mexico. [redacted] and her two children, if they join the applicant in Mexico, will have the financial and familial support of the applicant as well as emotional support from his relatives and her mother, who, the record reflects, lives in Mexico. Thus, it is clear that the degree of hardship assessed in *Matter of Recinas* and *Matter of Andazola* differs from what is presented in the Inclan case.

In *Matter of Monreal*, the BIA considered the ages, health, and circumstances of qualifying relatives. The BIA stated that:

> The hardship to the respondent, particularly in view of his 20 years of residence after his entry at age 14, his loss of long-standing employment, the adverse effect of his forced departure from this country on his two school-age United States citizen children, and the

> separation from his lawful permanent resident parents would likely have been found to rise to the level of "extreme" hardship by a majority of this Board.

The facts in *Matter of Monreal* seem to differ from [redacted] situation. There is no evidence in the record establishing that [redacted] has resided in the United States since her youth or will experience the loss of long-standing employment in the United States if she joins her husband in Mexico. [redacted] does not indicate that she will be separated from her parents who are lawfully present in the United States. The AAO therefore finds that the hardship factors assessed in *Matter of Monreal* differ significantly from those in the Inclan's situation.

[redacted] states that it will be very hard to find a decent job in Mexico at the age of 38 years old. He states that extreme hardship was found in *Matter of Piggott.* In that case, the BIA in upholding the immigration judge's finding of "extreme hardship" to the respondents and to their United States citizen children stated:

> The immigration judge found that the male respondent would be unable to obtain employment in Antigua, that neither of the respondents would be able to provide for their own necessities in Antigua, that the respondents' minor United States citizen children would suffer because of the respondents' lack of ability to provide them with proper food and living facilities in Antigua, and that the school system in Antigua is far inferior to that in the United States. The immigration judge also found that the respondents' younger citizen daughter is afflicted with rheumatic fever and is under a physician's care, and that equal medical care is not available in Antigua.

Count decisions have shown that the difficulty [redacted] may experience in securing employment in Mexico, and the hardships that flow from this, such as a lower standard of living and inadequate health care, is insufficient to establish extreme hardship. *See, e.g., Ramirez-Durazo v. INS,* 794 F.2d 491, 498 (9th Cir. 1986) (Even a significant reduction in the standard of living is not by itself a ground for relief); *Kuciemba v. INS,* 92 F.3d 496, 500 (7th Cir. 1996), (citing *Marquez-Medina v. INS,* 765 F.2d 673, 676 (7th Cir.1985))("General economic conditions in an alien's native country will not establish "extreme hardship" in the absence of evidence that the conditions are unique to the alien."). In *Carnalla-Munoz v. INS*, 627 F.2d 1004 (9th Cir. 1980), the Ninth Circuit upheld the BIA's finding that hardship in finding employment in Mexico and in the loss of group medical insurance did not reach "extreme hardship." In *Matter of Pilch*, 21 I&N Dec. 627, 631 (BIA 1996), the BIA stated that "mere loss of current employment, the inability to maintain one's present standard of living or to pursue a chosen profession, separation from a family member, or cultural readjustment do not constitute extreme hardship." (citations omitted). In a per curiam decision, *Pelaez v. INS*, 513 F.2d 303 (5th Cir. 1975), the Fifth Circuit found that difficulty in obtaining employment and a lower standard of living in the Philippines is not extreme hardship. "Second class" medical facilities in foreign countries are not per se extreme hardship. *Matter of Correa, supra.*

Furthermore, in *Bueno-Carrillo v. Landon,* 682 F.2d 143 (7th Cir.1982), in affirming the BIA decision to deny [redacted]'s application to suspend deportation, the Circuit Court stated in part that "[i]t is only when other factors such as advanced age, illness, family ties, etc., combine with economic detriment that deportation becomes an extreme hardship." *Bueno-Carrillo,* 682 F.2d at 146. In *Bueno-Carrillo*, the respondent lived in Illinois with his undocumented wife and four children, and one U.S. citizen child. He earned $200 weekly washing dishes in a restaurant. He claimed he had neither skills nor education, and

deportation would result in extreme hardship to both himself and his U.S. citizen daughter since he was virtually unemployable in Mexico.

[redacted] indicates that the BIA found extreme hardship in *Matter of Gee* and *Matter of O-J-O-*. In *Matter of Gee*, the BIA upheld the special inquiry officer's conclusion that the respondent's deportation would in fact result in extreme hardship to him. It observed that the respondent came to the United States when he was 18 years of age and has spent most of his adult life here; that the respondent alleges that it would be very difficult for him to obtain a job outside of this country; and that he has become accustomed to the way of life here.

In *Matter of O-J-O-* the BIA states:

> This is a close case on the issue of "extreme hardship" but one which, in the final analysis, meets the requirement of significant hardships over and above the normal economic and social disruptions involved in deportation. The respondent has lived in the United States during his critical formative years. He has significant church and community ties in the United States. He is fully assimilated into American culture and society. This assimilation makes the prospect of readjustment to life in Nicaragua much harder than would ordinarily be the case. He would also face difficult economic and political circumstances in his native country, including the possible loss of an ongoing business concern. This combination of hardships amounts to extreme hardship.

The extreme hardship in *Matter of Gee* and *Matter of O-J-O-* was based on the respondents' long residency in the United States, their assimilation into the American lifestyle, and their difficulty in obtaining employment in the home country.

The facts in the instant case are distinguishable from those in *Matter of Gee* and *Matter of O-J-O.* Here, unlike the respondent in *Matter of O-J-O-,* who arrived in the United States when he was age 25, [redacted] has not shown that his wife spent most of her life in the United States. In any case, even if [redacted]n were to establish that his wife spent most of her life here rather than in Mexico, without more, this would not constitute extreme hardship. Court and BIA decisions have held that readjustment to live in the respondent's homeland does not constitute extreme hardship. *See, e.g., Matter of Chumpitazi,* 16 I&N Dec. 629 (BIA 1978) (citing *Matter of Uy*, 11 I. & N. Dec. 159 (BIA 1965)) (Having spent a number of years in the United States, readjustment of an alien to life in his native country is not the type of hardship that is characterized as extreme, as "it is a type of hardship suffered by most aliens who have spent time abroad"); *Ramirez-Durazo v. INS,* 794 F.2d 491 (9th Cir.1986) (quoting Sullivan, 772 F.2d at 610) (the difficulty of readjusting to life in Mexico is not extreme hardship as it "is the type of hardship experienced by most aliens who have spent time abroad.")

With regard to finding employment in [redacted] home country, court and BIA decisions have consistently held that difficulty in securing employment in the respondent's homeland, without more, does not constitute extreme hardship. *See, Bueno-Carrillo, supra; Pelaez, supra, Matter of Pilch, supra; Carnalla-Munoz, supra; Marquez-Medina, supra; Kuciemba, supra; and Ramirez-Durazo, supra.*

Lastly, [redacted] states that he helped his wife operate a real estate business that she would not be able to duplicate in Mexico, and this is similar to the respondent in *Matter of O-J-O* who helped his father with a trucking business. [redacted]s state is not persuasive in establishing extreme hardship to his wife. The loss

of a business is a relevant factor in determining hardship; but it alone does not constitute extreme hardship. *See, e.g. Matter of Pilch* at 631("loss of his business, although unfortunate, does not entail extreme economic hardship, but, instead, is a normal occurrence when an alien is deported); *Chokloikaew v. INS*, 601 F.2d 216 (5th Cir. 1979) (Economic detriment, including a loss of investment, does not compel a finding of "extreme hardship.") (citations omitted); and *Asikese v. Brownell*, 1956, 97 U.S.App.D.C. 221, 230 F.2d 34 (loss of investment in luncheonette). In any case, it is noted that Mr. Inclan has furnished no evidence of the income derived from his wife's business venture.

[redacted] physician indicates that [redacted] fits the criteria for Level 3 Obesity. The consequences of this diagnosis are not explained in the physician's letter. Thus, there is no evidence in the record establishing that [redacted] or any member of her family has a severe health condition.

The Inclans indicate that their son who is 12 years old lacks knowledge of Spanish. Many of the BIA decisions cited by [redacted] consider the hardship of diminished education opportunities of the respondent's children. Although hardship to the applicant's children is not a consideration under section 212(i) of the Act, the hardship endured by [redacted], as a result of her concern about the well-being of her children, is a relevant consideration.

With regard to the education of a child, in *Prapavat v. I.N.S.*, 638 F.2d 87, 89 (9th Cir.1980), the Ninth Circuit stated that the hardship to the petitioners' United States citizen daughter, who was about five years old at the time of the Board's decision and is now almost six, must be considered. It stated that:

> The child, born in this country, has spent her entire life here. She is enrolled in school, a factor of significance. *See, e. g., Wang*, 622 F.2d at 1348 n.7; *Jong Shik Choe v. I. N. S.*, 597 F.2d 168, 170 (9th Cir. 1979); *Urbano de Malaluan v. I. N. S.*, 577 F.2d 589, 595 n.5 (9th Cir. 1978). If her parents are deported, this American citizen child will be uprooted from her native country where she has spent her entire life, and taken to a land whose language and culture are foreign to her.

In *Ramos v. I.N.S.*, 695 F.2d 181, 187 n. 16 (5th Cir.1983) the Fifth Circuit noted the "great difference between the adjustment required" of infants going to a parent's homeland and school age children facing the same fate. In *Jara-Navarrete v. I.N.S.*, 813 F.2d 1340, 1342 (9th Cir.1986) the Ninth Circuit stated that U.S. citizen children must be given individualized consideration. In *Ravancho v. I.N.S.*, 658 F.2d 169, 175-77 (3d Cir.1981) the court stated that consideration must be given to the effect of a move to the Philippines would have on an eight-year-old American citizen. In *In Re Kao & Lin*, 23 I&N Dec. 45 (BIA 2001), the BIA held that to uproot the respondent's 15-year-old daughter at this stage in her education and her social development and to require her to survive in a Chinese-only environment would be a significant disruption that would constitute extreme hardship to her.

The AAO finds that the record indicates that the applicant's 12-year-old son who is limited in his knowledge of the Spanish language would endure extreme hardship at this stage in his education and social development if he lives in Mexico. However, this finding is not sufficient, in itself, to establish extreme hardship to Ms. [redacted] if she were to join her husband in Mexico; additional hardship factors are missing.

In considering the hardship factors raised here, the AAO examines each of the factors, both individually and cumulatively, to determine whether extreme hardship has been established. It considers whether the cumulative effect of claims of economic and emotional hardship would be extreme, even if, when considered separately, none of them would be. It considers the entire range of factors concerning hardship in their totality and then determines whether the combination of hardships takes the case beyond those hardships ordinarily associated with removal.

In the final analysis, the AAO finds that the requirement of significant hardships over and above the normal economic and social disruptions involved in removal has not been met so as to warrant a finding of extreme hardship. Having carefully considered each of the hardship factors raised, both individually and in the aggregate, it is concluded that these factors do not in this case constitute extreme hardship to a qualifying family member for purposes of relief under 212(i) of the Act, 8 U.S.C. § 1182(i).

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. *See* section 291 of the Act, 8 U.S.C. § 1361. The applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.