U.S. Department of Homeland Security
20 Massachusetts Ave. N.W., Rm. 3000
Washington, DC 20529

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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: CHICAGO, IL Date: NOV 30 2007

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 District Director, Chicago, Illinois, 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 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 entry into the United States by fraud or willful misrepresentation; the record indicates that the applicant attempted entry to the United States on or about November 24, 1973 by altering and presenting an alien registration receipt card belonging to another individual. The applicant's parents are lawful permanent residents. As such, 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 his parents.

The district director concluded that the applicant had 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 District Director,* dated December 20, 2005.

In support of the appeal, counsel for the applicant submits a completed Form I-290B, Notice of Appeal (Form I-290B), dated January 11, 2006, and a duplicate copy of a letter previously provided by the applicant's mother's physician with respect to her medical condition, dated June 24, 2005. 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.

Based on the evidence in the record, the applicant is inadmissible pursuant to section 212(a)(6)(C)(i) of the Act.

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 immigrant 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...

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. 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.

Section 212(i) of the Act provides that a waiver under section 212(a)(6)(C)(i) of the Act is applicable solely where the applicant establishes extreme hardship to his or her citizen or lawfully resident spouse or parent. Extreme hardship to the applicant himself is not a permissible consideration under the statute. In the present case, the applicant's parents are the only qualifying relative, and hardship to the applicant, his children, or his sibling cannot be considered, except as it may affect the applicant's parents. 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).

To begin, counsel asserts that the applicant's parents would suffer extreme financial hardship were the applicant removed from the United States. As stated by the applicant, "...I am the eldest of seven brothers. I have two older sisters who still live in Mexico...My mother is very ill. Her most serious ailment is her heart condition. I along with my brothers help support my parents financially. [redacted] receive social security benefits, but not benefits for their medications. The medicines are very expensive. I and my brothers are all married with children. So, we must each contribute to our parents support and medical needs..." *Affidavit of* [redacted] dated June 27, 2005.

Courts considering the impact of financial detriment on a finding of extreme hardship have repeatedly held that, while it must be considered in the overall determination, "[e]conomic disadvantage alone does not constitute "extreme hardship." *Ramirez-Durazo v. INS,* 794 F.2d 491, 497 (9th Cir. 1986) (holding that "lower standard of living in Mexico and the difficulties of readjustment to that culture and environment . . . simply are not sufficient."); *Shooshtary v. INS,* 39 F.3d 1049 (9th Cir. 1994) (stating, "the extreme hardship requirement . . . was not enacted to insure that the family members of excludable aliens fulfill their dreams or continue in the lives which they currently enjoy. The uprooting of family, the separation from friends, and other normal processes of readjustment to one's home country after having spent a number of years in the United States are not considered extreme, but represent the type of inconvenience and hardship experienced by the families of most aliens in the respondent's circumstances."); *Matter of Shaughnessy,* 12 I&N Dec. 810 (BIA 1968) (holding that separation of family members and financial difficulties alone do not establish extreme hardship); *INS v. Jong Ha Wang,* 450 U.S. 139 (1981) (upholding BIA finding that economic detriment alone is insufficient to establish extreme hardship).

The record contains no corroborating evidence to establish that the applicant's removal would cause the applicant's parents extreme financial hardship. To begin, no documentary evidence been provided regarding the applicant's parent's current financial situation and their needs, to establish that without the applicant's continued financial support, their hardship will be extreme. Moreover, counsel has not detailed why the applicant, a laborer since 1989, would be unable to find a similar position in Mexico that would allow him to assist his parents in the United States financially. Finally, the record indicates that the applicant's parents have several children that reside in the United States. No evidence has been provided by counsel to explain

why the applicant's parents' children would be unable to assist the applicant's parents with respect to their financial and medical care, were the applicant removed. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

In addition, counsel contends that the applicant's mother will suffer extreme physical hardship were the applicant removed. In support, counsel provides a letter from [redacted] the physician treating the applicant's mother. As [redacted] states, "... [redacted] [the applicant's mother] is presently under my care for the following: ...Duromedics mitral valve placed in 1986...Atrial fibrillation, treated with rate control and anticoagulation...VVI St. Jude pacemaker implanted in December of 2000 for symptomatic bradycardia...Diabetes...Dyslipidemia.. [redacted] will require life long anticoagulation therapy and will require periodic evaluation of her VVI St. Jude pacemaker." *Letter from* [redacted] dated June 24, 2005.

No documentation has been provided that explains in detail the applicant's mother's medical conditions, the short and long-term treatment plans, the gravity of her medical conditions, and what assistance she needs from the applicant in particular. The letter provided by [redacted] lists the medical conditions suffered by the applicant's mother, but said letter fails to establish that the applicant's mother's continued medical care and survival directly correlate to the applicant's physical presence in the United States.

While the applicant's parents may need to make alternate arrangements with respect to their finances and their continued medical care, it has not been established that any new arrangements would cause extreme hardship to the applicant's parents. The AAO recognizes that the applicant's parents will endure hardship as a result of separation from the applicant. However, their situation, if they remain in the United States, is typical to individuals separated as a result of removal and does not rise to the level of extreme hardship based on the record. U.S. court decisions have repeatedly held that the common results of removal 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.

The AAO notes that extreme hardship to a qualifying relative must be established in the event that he or she accompanies the applicant or in the event that he or she remains in the United States, as a qualifying relative is not required to reside outside of the United States based on the denial of the applicant's waiver request. In this case, no reasons have been provided by counsel for why the applicant's parents, both born in Mexico, are unable to accompany the applicant to the Mexico, or any other country of their choosing were the applicant removed from the United States.

As such, a review of the documentation in the record, when considered in its totality, reflects that the applicant has failed to show that his lawful permanent resident parents would suffer extreme hardship if he were removed from the United States, and moreover, the applicant has failed to show that his lawful permanent resident parents would suffer extreme hardship were they to relocate to another country with the applicant were he removed. 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.