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U.S. Citizenship  
and Immigration  
Services

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FILE:

[REDACTED]

Office: BALTIMORE

Date:

JAN 09 2006

IN RE:

[REDACTED]

PETITION: 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 PETITIONER:

[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, Director  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Interim Director for Services, Baltimore, 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 submitting a Resident Alien Card (Form I-551) belonging to another person in connection with his attempted entry into the United States on December 29, 1996, at San Ysidro, California. The applicant was placed into exclusion proceedings, and on January 2, 1997, he was ordered excluded from the United States and removed. The applicant returned to the United States at a later date and the applicant then began a series of complex and interrelated exchanges with the then Immigration and Naturalization Service (INS) and the current Citizenship and Immigration Service (CIS), which this decision will outline below.

The applicant re-entered the United States sometime after his removal on January 1, 1997. He subsequently married his spouse, [REDACTED] a naturalized U.S. citizen on May 28, 1997 in Rockville, Maryland. His wife filed a Petition for Alien Relative (Form I-130) on August 19, 1997. The Vermont Service Center sent the applicant a notice dated October 27, 1997, in which it noted that, as the couple had married during the pendency of immigration proceedings, it would be necessary for them to request a bona fide marriage exemption and demonstrate by clear and convincing evidence that the marriage between the applicant and his spouse was not entered into for the purpose of evading any provisions of the Act. *See Notice of Action (Form I-797)*, dated October 27, 1997. It appears from the record that no response was submitted within the ninety-day period provided for a response. It appears, however, that counsel submitted a response in September 15, 1998.<sup>1</sup> Included in that response were various documents, including affidavits from the couple, and some friends, an affidavit from the pastor of their church, a rental agreement, utility bills, bank statements and cashed checks, photos, and a letter from the applicant's employer. The file reflects that on the same date, the district director issued a letter in which he indicated that the Form I-130 was being approved.

The applicant filed an Application for Permission to Reapply for Admission Into the United States After Deportation or Removal (Form I-212), along with an Application for a Waiver of Excludability (Form I-601) on March 9, 1999. It does not appear, from an examination of the record, that the applicant provided any additional evidence in support of those applications. The Form I-212 was approved on June 21, 1999.

The applicant then filed an Application for Adjustment of Status (Form I-485) on September 29, 1999, and was interviewed on that application on January 30, 2001. On March 23, 2001, the district director issued a Notice of Intent to Deny (NOID) the Form I-485, noting the requirement of demonstrating extreme hardship in connection with the request for a waiver of inadmissibility and citing cases for the proposition that such a showing was not made merely based on the existence of a qualifying relationship. The applicant was given ninety days to respond and submit additional evidence. *See Notice of Intent to Deny*, dated March 23, 2001.

The applicant appears to have secured current counsel at that time, and on May 31, 2001, counsel submitted a letter referencing the NOID, attaching additional evidence and explaining the factors that counsel believed established extreme hardship. The additional documents submitted included, affidavits from the couple,

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<sup>1</sup> While the cover letter transmitting the responsive information contains a printed date of December 22, 1997, that date appears to have been crossed out and replaced with a handwritten date of September 15, 1998.

affidavits from two friends of the couple, another letter from the applicant's employer, a more detailed letter from the associate pastor of the couple's church, the couple's income tax returns for the 2000 tax year, and copies of additional photographs. It appears that following this submission, the district director sent a NOID relating to the Form I-601 waiver application. The district director referenced a Form I-601 filed on July 24, 2001, and recounted the evidence that had been submitted in support of the application. The decision noted that the claim of extreme hardship was based upon the difficulty the spouse would experience from the couple's separation, and the financial hardship she would encounter without her spouse's income. The district director found that the evidence failed to demonstrate extreme hardship. Counsel for the applicant submitted a rebuttal within the allotted time period, raising various issues, including concern about errors allegedly made by the district director in terms of his reference to the filing date and in his consideration of the evidence submitted in support of the application. Counsel took issue with the district director's findings and noted which components of extreme hardship she felt the evidence provided. In addition, she offered additional evidence in the form of a psychological evaluation of the applicant's spouse prepared by a psychologist who addressed the psychological impact of a denial of the waiver.

The file contains two decisions dated April 5, 2003. One is a denial of the Form I-485 noting that on March 10, 2003, the applicant's Form I-601 had been denied, and therefore concluding that the applicant's adjustment of status application was being denied. *See Decision Denying the Application for Adjustment of Status*, dated April 5, 2003. The second decision is the denial of the I-601 waiver application itself.<sup>2</sup> In addition to these two decisions, the file also contains a Notice of Intent to Revoke (NOIR), the previously approved I-130 on the ground that the petitioning spouse had only listed one previous marriage that had been terminated, whereas the psychological report submitted in support of the I-601 waiver, indicated that the applicant's spouse had been married on two previous occasions, and thus it appeared that the petitioner had failed to demonstrate that she was eligible to marry and file a petition on behalf of the applicant.

In response to the NOIR, counsel submitted a letter dated April 28, 2003, which was accompanied by an explanation from the psychologist who had evaluated the applicant's spouse, and an affidavit from the spouse. The documents sought to explain that the inconsistency was attributable to the existence of a common-law type of relationship that the applicant's spouse had with the father of her children, and a misunderstanding between the applicant's spouse and the psychologist regarding the nature of that relationship. It appears that the district director must have found the explanation to be satisfactory, or concluded that it would be unnecessary to address it in light of the other decisions that had been made in the case. For purposes of the AAO review, the decision that is pertinent to this office's review is the district director's decision denying the I-601 waiver. The following is a discussion of that specific decision and this office's evaluation of its reasoning and counsel's arguments on appeal.

The district director's decision focused primarily on the supplemental evidence in the form of the psychologist's report submitted in response to the NOID. This decision will first address those findings and then will also consider the findings made with respect to the additional evidence regarding extreme hardship previously addressed by the district director in the NOID.

Joseph Gorin, Psy.D., a licensed psychologist conducted the psychological evaluation submitted by counsel. The applicant's spouse was evaluated using two different assessments. The psychologist administered the

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<sup>2</sup> It appears that the decision denying the I-485 erroneously refers to the denial of the I-601 waiver as having occurred on March 10, 2003.

PAI, “a 344 item, objective test of personality.” According to the psychologist, the spouse’s “PAI profile suggested that the most likely psychiatric diagnosis for Ms. [REDACTED] is Posttraumatic Stress Disorder. In addition, “Major Depression was also listed as a possible diagnosis.” See *Psychological Evaluation Conducted by Joseph Gorin, Psy.D.*, dated December 18, 2001. The district director’s decision noted, in some detail, the findings of the psychologist, including the fact that she had reportedly experienced childhood sexual abuse, and suffered from a lack of self-esteem. However, the district director noted that according to the psychologist’s own diagnosis, “her depressive symptoms are not so strong as to be diagnosable.” On this basis, the district director found that the spouse’s psychological condition did not rise to the level of extreme hardship. See *Decision of the District Director*, dated April 5, 2003.

In support of the appeal, counsel has submitted a letter addressing the findings made in the district director’s decision and offering a supplemental submission by the psychologist clarifying his evaluation. Counsel stresses that the psychologist’s conclusion is that the Major Depression that Mrs. [REDACTED] would suffer if her husband were to be deported “constitutes an extreme hardship from a psychological point of view,” and that the husband’s deportation “would cause her depressive symptoms to be diagnosable.” *Counsel’s Letter in Support of Appeal*, dated April 28, 2003. Counsel argues that the district director was inappropriately imposing a requirement that the extreme hardship exist at the time of filing, whereas the statutory requirement is that denial of the waiver “would result” in extreme hardship, thus constituting “a conditional expectation of extreme hardship in the event the alien spouse is deported.” *Id.* In addition to asserting that the district director erred as a legal matter, counsel further asserts that in addition to the spouse being likely to suffer from psychologically, the evidence demonstrated that various other factors support a finding of extreme hardship. Those factors consisted of: the inability of the applicant and his spouse to obtain employment in Mexico; the couple’s lengthy residence in the United States; the existence of close family members legally residing in the United States; the financial impact of the applicant’s departure; the economic conditions in Mexico; the lack of family and other ties in Mexico; and the contributions and ties to the United States. *Id.* at 2-3. The entire record was reviewed and considered in rendering a decision on the appeal.

Section 212(a)(6)(C) of the Act provides, in pertinent part:

- (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.

....

- (iii) Waiver authorized. – For provision authorizing waiver of clause (i), see subsection (i).

Section 212(i) of the Act provides:

- (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 the alien himself experiences upon deportation is irrelevant to section 212(i) waiver proceedings; the only relevant hardship in the present case is that suffered by 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).

*Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565-566 (BIA 1999) provides a list of factors the Board of Immigration Appeals (BIA) deems relevant in determining whether an alien has established extreme hardship pursuant to section 212(i) of the Act. 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.

#### Extreme Hardship Based upon the Psychological Impact Upon the Spouse

After reviewing the district director's decision and counsel's arguments on appeal, the AAO finds that the district director's decision failed to adequately address the evidence submitted regarding the psychological evaluation of the applicant's spouse. Although the decision provides a thorough description of the psychological report, the district director's conclusions regarding the report are cursory in nature. The decision simply states:

However, in considering the professional evaluation of your wife's psychological condition, as cited above, it is noted that D [REDACTED] states that "her depressive symptoms are not so strong as to be diagnosable." Therefore, it does not appear that your wife's psychological condition merits consideration as an extreme hardship.

While the AAO finds that the district director's treatment of the psychological evidence was too brief, this does not mean that the ultimate conclusion regarding the effect of that evidence on a finding of extreme hardship was incorrect. First, the AAO does not agree with counsel's argument that the district director's decision modified the statutory requirement by requiring that extreme hardship exist at the time of the application for the waiver, as opposed to demonstrating that extreme hardship *would result* from the denial of the waiver. A review of the district director's decision reveals no such modification. Nevertheless, the

decision appropriately requires that the evidence be sufficiently detailed and specific to support a finding that extreme hardship will, in fact, occur. The district director's decision found the evidence of the psychological impact to the spouse inadequate. However, this determination was based not on a finding that extreme hardship would necessarily occur. The evidence was insufficient to support such a finding because of its uncertain and speculative nature. As the district director's decision described, while the evidence indicated that the applicant suffered from depressive symptoms, they were not so strong as to be diagnosable. Simply put, the spouse did not currently suffer from depression, and the evaluation was unable to assert that the denial of the waiver would, in fact, result in an adverse psychological impact. While the initial evaluation does state that if the applicant were removed the spouse would no longer have her primary coping mechanism, it speaks of the effect of that in terms of *potential* future effects, not certain effects, and describes the effects of a denial of the waiver by using terms such as a "strong possibility," or "reasonable likelihood" that the applicant's spouse could suffer a Major Depression. While the district director did not take issue with findings made in the evaluation, it found those findings to lack the specificity and certainty necessary to support a finding favorable to the applicant. In light of its review of the evidence before the district director, the AAO concludes that his finding that the evidence did not demonstrate that the denial of the waiver would result in extreme hardship to the spouse on account of an adverse effect upon her psychological condition was reasonable.

The AAO has noted that counsel has offered a clarification of the psychological evaluation on appeal in the form of a letter from Dr. [REDACTED]. In his letter, he quotes from his previous evaluation regarding the potential effect upon the spouse of the applicant's removal, and states that "from a psychological point of view, Major Depression would constitute an extreme hardship." *Letter from Joseph Gorin, Psy.D.*, dated April 16, 2003. The letter further provides an explanation that his intent in the first evaluation was to note that while her symptoms were not at a diagnosable level at the time, her husband's deportation would be likely to cause them to be diagnosable. *Id.* He adds that as social support is the best "mediator" of Posttraumatic Stress Disorder, the removal of the applicant, who is the spouse's most significant social support, would "also be likely to cause an exacerbation of her PTSD symptoms. He also opines that such an exacerbation would also constitute an extreme hardship." *Id.*

The AAO does not question the sincerity of the doctor's beliefs, but does not consider the clarification provided to significantly aid the applicant. The AAO finds the evaluation to be deficient in two significant respects. First, the statute sets forth the legal standard that must be satisfied by an applicant who seeks a waiver. While the doctor may provide objective evidence and a medical opinion that contributes a determination by the adjudicator as to whether the standard has been satisfied, the doctor's opinion as to whether the legal standard has been satisfied is beyond his expertise, thus the doctor's conclusion that the psychological conditions experienced by the spouse would constitute an extreme hardship are not binding. He himself clarifies that the opinions are "from a psychological point of view." Second, the clarification offered still consists of predictions based on conjecture and speculation regarding consequences which may or may not occur and which, even if they occur, may be treatable, or which may be ameliorated by the additional sources of support available to the applicant's spouse. The statute requires a definitive finding that the qualifying relative would experience extreme hardship—not merely that such hardship is possible, or even probable. Therefore, the psychological evidence does not rise to the necessary level to compel the finding advocated by counsel.

Extreme Hardship Based Upon Financial, Family and Community Ties

The AAO turns next to the remaining grounds asserted by counsel to demonstrate extreme hardship. Although counsel notes several factors which she believes demonstrate extreme hardship, those factors will be considered by the AAO as falling within the following three general categories of hardship: 1) financial hardship; 2) hardship based upon the potential loss of family ties; and 3) hardship based upon the loss of community ties. The AAO considers each of those factors, reviewing the specific evidence offered, and counsel's arguments in support of appeal.

In terms of financial hardship, counsel asserts that the evidence demonstrates that the applicant and his spouse would be unable to obtain employment in Mexico, and would face financial difficulties due to the economic circumstances in that country. *Counsel's Letter in Support of Appeal*, dated April 28, 2003. The district director had found in the NOID that the potential loss of a job and any resulting financial losses did not constitute extreme hardship. Counsel responded to the NOID by asserting that the affidavits submitted by the applicant and his spouse demonstrated the financial hardship they would suffer if required to move to Mexico. According to counsel's response, it is understood that "the Mexican economy is so depressed that there is simply no work available." *Counsel's Letter in Response to the Notice of Intent to Deny*, dated May 31, 2001. Counsel additionally asserted that the applicant worked as an equipment operator whose skills would be useless in Mexico because "manual labor, and not equipment is used in such poor countries. *Id.* According to counsel, the applicant's loss of income would result in extreme hardship to the couple. *Id.*

An examination of the evidence reflects that the evidence in support of the economic hardship consists almost entirely of the affidavits in the record, which include those of the applicant, his spouse, and two friends. Also included are excerpts from Interpreter Releases from 2001, which discuss, in general terms, the objectives of migration discussions being held during that time period between the United States and Mexico. The applicant's affidavit states that he is employed as an equipment operator in the United States and that he would be unable to find work in Mexico. He states that his wife would be unable to support herself on her income alone as he is the principal breadwinner in the family. *See Affidavit of Humberto Becerra*, dated May 21, 2001. The spouse's affidavit tracks the spouse's affidavit nearly word for word, also asserting that she would suffer extreme hardship as a result of her reduced standard of living. *See Affidavit of Blanca Estela Becerra*, dated May 30, 2001. Similarly, the affidavits of three friends of the couple likewise assert that the applicant would be unable to obtain employment in Mexico and as a result, the applicant's spouse would experience extreme hardship due to her reduced standard of living. *See Affidavits of Eloy Perez, Jose F. Zamora, and Alfredo Penate*, various dates.

The AAO finds the evidence of extreme hardship based upon the couple's reduced financial standing to be unsupported general assertions. Counsel has made broad statements regarding the inability of the applicant to obtain employment in Mexico. While counsel asserts that the applicant's skills as an equipment operator would be useless in Mexico, the assertions of counsel do not constitute evidence. *Matter of Laureano*, 19 I&N Dec. 1, 3 (BIA 1983); *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Furthermore, the assertion is also simply not supported by the evidence. The mere assertion by the applicant, his spouse and their friends residing in the United States as to the availability of work for the applicant in Mexico is speculative. Moreover, while it may be the case that large portions of Mexico may rely on manual labor, Mexico is a country with sophisticated cities and the

contention that the entire country relies only upon manual labor does not appear plausible. While the AAO recognizes that the economic situation in Mexico is not as favorable as that in the United States, that does not establish either that the applicant will be unable to obtain employment or that his spouse will experience extreme hardship.

Although the contention is made that the applicant's spouse cannot survive without his income, the record is ambiguous as to how much of the couple's income (reflected as \$32,009 for the 2000 tax year), is attributable to the applicant as opposed to his wife. No W-2 forms were included in the submissions that would permit such an assessment. In addition, no additional financial evidence was submitted from which such an assessment could be made. The record, through the spouse's own affidavit, reflects that she has resided in the United States for nearly twenty-five years. See *Affidavit of Blanca Estela Becerra*, dated May 30, 2001. The couple was married in 1997, and the record reflects that the applicant's spouse had been divorced from her previous husband for at least two years before her present marriage. She was apparently able to support herself in the United States during that time period, whether that was through her own efforts or with the assistance of her family members. It also appears, from evidence in the record that the spouse, along with another individual, is responsible for paying the rent on the couple's lease of the apartment they share. See *Agreement of Lease*, dated July 1, 1993.<sup>3</sup> While it is possible, as asserted in the affidavits, that the applicant's spouse may experience a reduced standard of living on account of being unable to rely upon her husband's income, the AAO finds that the evidence does not establish that the spouse would experience economic detriment that would rise to the level of extreme hardship.

The second additional category of hardship asserted is hardship based upon the severing of the spouse's family ties. The evidence in the record consists of the affidavits of the applicant and his spouse and those of several friends of the couple. These affidavits generally provide that the spouse's entire family resides in the United States and that she would suffer extreme hardship if forced to sever those ties or to separate from her husband. In the NOID, the district director determined that the hardship resulting from family separation was insufficient to find extreme hardship. See *Notice of Intent to Deny the I-601*, dated October 19, 2001. On appeal, counsel takes issue with the district director's dismissal of the hardship caused by the separation, and argues that the applicant's case is distinguishable from the situation in *Matter of W-*, 9 I&N Dec. 1 (BIA 1960), which was cited by the district director in both the NOID and the decision denying the waiver. Counsel asserts that the cases are distinguishable because the alien in *Matter of W-* had a criminal record, which the applicant lacks. Counsel further distinguishes the case by noting that the couple in *Matter of W-* had been married only "after a brief acquaintance, and the respondent's wife was not dependent upon him for support." See *Counsel's Letter in Support of Appeal*, dated April 28, 2003. A review of the decision discloses that counsel is partially correct. While the record does reflect that the alien had a criminal record, that factor, however, was not the principal basis on which the application's denial was upheld by the Board of Immigration Appeals (BIA). A review of the decision reveals that the alien's unfavorable criminal history provided *additional* grounds for the denial, but the BIA upheld the finding that the alien had not demonstrated extreme hardship to the spouse as the spouse was not dependent upon the alien for support and the marriage had produced no children. Those same facts are present here. While the applicant's spouse does have children from a previous relationship, those children are now adults. Furthermore, no hardship to the

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<sup>3</sup> The AAO notes that the record also contains a letter from the apartment management company noting that the applicant began residing at the same residence on August 11, 1997, that simply is evidence of his residence and does not establish his financial responsibility. See *Letter from Commodore Management Company, Inc.*, dated August 11, 1997.

applicant's spouse owing to a residual effect upon her children has been asserted. Although counsel asserts that the present case is also distinguishable due to the spouse's financial dependency, the AAO has previously explained why the evidence does not support such a finding. As previously discussed, the evidence in the record does not support a finding of financial dependency. Consequently, the instant case is not, as counsel asserts, distinguishable in any material respect.

Finally, counsel also asserts that denial of the waiver will result in extreme hardship based upon the spouse's ties to the community and the contributions they have made to that community. While the existence of community ties and contributions to the community are favorable factors, it is not clear from the cases previously cited in this decision, nor has counsel offered any additional authority to support a finding that the inability to maintain those ties and continue those contributions constitutes an extreme hardship to the qualifying relative. Nevertheless, even if that were the case, the AAO finds that the evidence is scant on this factor as well. The record does not contain evidence of contributions to the community by the couple that could be considered significant. Aside from the affidavits attesting to the spouse's family and friends in the United States, the only evidence of the community ties consists of a letter from the pastor of the Our Lady of Lourdes Church in Bethesda, Maryland. That letter expresses support for the grant of the waiver and describes the fact that the applicant has donated time and skills to the community through his work for the church. The letter does not address the spouse in terms of any contributions she may have made to the church or community. See *Letter from Reverend Mario E. Dorsonville*, dated May 11, 2001. Even assuming that the applicant and his spouse's contributions to the community were very substantial, there is no indication as to how the absence of those contributions would result in extreme hardship to the applicant's spouse. While the applicant's contributions would certainly constitute a favorable factor in the exercise of discretion, that is a separate issue from the issue of whether the evidence establishes extreme hardship. Furthermore, there is no requirement that the spouse cease her own contributions and connections to the community, as she is free, as a citizen, to remain in 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. The AAO recognizes that the applicant's spouse will endure hardship as a result of separation from the applicant. However, her situation, based on the record, is typical to individuals separated as a result of deportation or exclusion and does not rise to the level of extreme hardship.

We note that the record reflects that the applicant's spouse has several family and friends who have supported the applicant's effort to remain in the United States. As indicated by the affidavits, the applicant's spouse enjoys a very close relationship with her family and friends. Should she elect to remain with her daughter in the United States, they no doubt would provide her with emotional support, which, while different from that

which her spouse could provide, would nonetheless be important for her adjustment to her husband's departure.

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(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. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.