

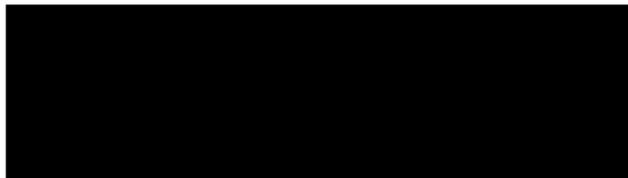
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U.S. Citizenship  
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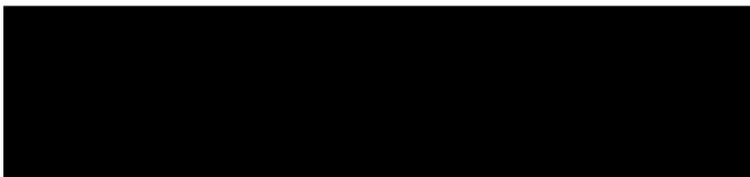
FILE: [redacted] Office: LOS ANGELES, CA Date:

JUL 17 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:



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, California, 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 excludable in immigration court and ordered removed on September 7, 1995 for having procured entry into the United States by using a fraudulent passport and visa. The applicant was deported, and informed that she could not reenter the U.S. for one year without permission from the Attorney General [now the Secretary of Homeland Security (Secretary)]. The applicant subsequently re-entered the United States a few days later without inspection. The applicant filed an I-485 Adjustment of Status application on April 13, 2001, based on her March 12, 1992 marriage to a U.S. citizen. The applicant was found to be inadmissible 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). She seeks a waiver of inadmissibility under section 212(i) of the Act, 8 U.S.C. § 1182(i) in order to remain in the U.S. with her spouse.

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 April 19, 2005.

On appeal, counsel contends that Citizenship and Immigration Services (CIS) failed to properly consider and analyze the extreme hardship factors set forth in the applicant's case, as required by legal precedent decisions. In support of this assertion, counsel submits a brief, dated May 18, 2005; an affidavit from the applicant's spouse, a U.S. citizen, dated May 6, 2005; a letter from a physician treating the applicant, dated April 27, 2005, a neurological consultation report regarding the applicant, dated November 1, 1999; printouts from Healthcommunities.com's website about Multiple Sclerosis (MS); health insurance confirmation for the applicant and her family; and a bank statement, dated April 8, 2005, verifying payment of health insurance in the amount of \$710. 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 clearly 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...

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 applicant herself experiences upon deportation is irrelevant to section 212(i) waiver proceedings; the only relevant hardship in the present case is hardship 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).

As counsel points out on appeal, *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 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.

To begin, counsel asserts that the applicant, who has been diagnosed with Multiple Sclerosis, a neurological, progressive and degenerative disorder, must avoid stressful conditions so as to prevent any relapse. *Brief in Support of the Appeal of the Decision of USCIS to Deny the I-601*, dated May 18, 2005. Counsel documents that the applicant's medical expenses are covered under a private insurance policy and contends that if she returns to Mexico, such coverage will not continue. Counsel provides no evidence in the record to support this claim. In addition, no evidence has been provided that confirms that the applicant has no relative(s) and/or friend(s) who would be able to assist her in Mexico, nor is any evidence provided to substantiate counsel's claim that the applicant's medical situation will worsen to a greater degree while in Mexico, such as documentation from medical experts in the field, confirming that Multiple Sclerosis cannot be treated properly in Mexico.

Furthermore, counsel does not provide documentation to show that the applicant will be unable to work in Mexico, thereby reducing the financial burden on the applicant's spouse and providing her with the capability of obtaining adequate medical coverage while in Mexico. Finally, although a letter has been provided by [REDACTED], stating that the applicant "...has been in stable conditions; however, her medical status remains vulnerable and any stressful conditions can cause relapse of this devastating disease...", no documentation has been provided to substantiate extreme hardship to the applicant's spouse if there is a worsening of the applicant's medical condition; a mere assertion by counsel and the applicant's spouse does not suffice.

In addition, counsel contends that the applicant's spouse would suffer extreme hardship as a result of relocating to Mexico to remain with the applicant. *Brief in Support of Appeal* at 5. Counsel asserts that the applicant's spouse maintains lucrative employment in the United States and supports his wife and two

children. *Id.* at 5. Counsel cites the poor economic conditions and general instability in Mexico as further reasons that the applicant's spouse cannot relocate there. *Id.* at 5.

Although counsel offers evidence of minimum daily wages for workers in Mexico, as outlined by the U.S. Department of State, counsel does not offer any documentation to show that the applicant's spouse will be subject to the minimum wages outlined, and will thereby be unable to support his family. The applicant's spouse is a project manager for a sprinkler and landscaping company; if he were to accompany his wife to Mexico, evidence that he would not be able to assume a similar position, relatively comparable in pay and responsibilities, with the ability to obtain medical insurance, has not been provided.

Counsel then contends that the applicant's spouse would suffer extreme hardship as a result of departing from the United States as he has resided in the United States for many years, and his mother, and six siblings, reside in the United States as well. *Id.* at 5. The applicant's spouse states that his mother "...is very dependent on me for emotion and financial support..." *Declaration of* [REDACTED] dated May 6, 2005. It is noted that the record contains no corroborating evidence to establish that the applicant spouse's mother requires financial support or other care or that the applicant's spouse provides such care to his mother. Moreover, although counsel asserts in her letter that the applicant's two U.S. citizen children will suffer hardship if the applicant is removed from the U.S., section 212(i) of the Act does not list children as qualifying relatives for extreme hardship purposes.

The applicant's spouse states that "...I cannot imagine my life without my wife...she is the love of my life..." *Id.* at 1. The AAO recognizes that the applicant's spouse will endure hardship as a result of separation from the applicant. However, his situation, if he remains in 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 based on the record. 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 district director's decision states that "...the key term in the provision is 'extreme' and thus only in cases of great actual or prospective injury to the United States citizen will the bar to admission be removed..." *See Decision* at 2. A review of the documentation in the record, when considered in its totality reflects that the applicant has failed to show that her U.S. citizen spouse would suffer extreme hardship if she were removed from the United States. 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. Thus, the AAO finds it unnecessary to determine whether the district director erred in her analysis of the favorable and unfavorable discretionary factors in the applicant's case.

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.