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U.S. Citizenship
and Immigration
Services

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DEC 17 2008

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER 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:

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).


John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Haiti 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 procured entry into the United States by fraud or willful misrepresentation; the record indicates that the applicant presented a passport and a visa belonging to another individual when seeking admission to the United States. The applicant thus 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 lawful permanent resident mother.

The director concluded that extreme hardship to a qualifying relative had not been established and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the Director*, dated April 26, 2006.

In support of the appeal, counsel submits the Form I-290B, Notice of Appeal (Form I-290B) and an attachment. 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, 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:

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.

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.

The applicant's lawful permanent resident mother asserts that she will suffer extreme hardship were the applicant removed from the United States. As the applicant's mother states:

I am now a permanent resident of the United States, and earn a living here as a farm worker....

I do not have any assets. I rent an apartment in Florida and do not own a home. I do not drive, so I am transported to the field each day to work. I have trouble with English, but have done all kinds of farm work and therefore, have been able to continue working.

I have been the sole support of my entire family, until they became of working age. We are a very close family.... I am sixty-one years old and I need their support now. I have been recently diagnosed with high blood pressure and am taking medication. Florida health care is very expensive for someone in my position and I need help with reading and writing English.

Daniel [the applicant] is currently attending college.... He is my only son here in the US and with the absence of a father he has been the sole male figure in our family. As it becomes more difficult for me to work I will be relying on him to help support me financially as well as to help me with the doctors because my English is so poor....

Now that I am older and have developed health issues I am relying on him [the applicant] to help me emotionally and financially....

Affidavit of [REDACTED] dated February 20, 2004.

No objective documentation from a licensed medical professional has been provided that explains in detail the applicant's mother's current medical condition, the gravity of the situation, its short and long-term treatment plan and what specific hardships she will face without the applicant's presence. In addition, no documentation has been provided to establish that the applicant's mother's relatives, including her siblings and/or her children, and/or community members are unable to assist her with her day to day care, should the need arise. The AAO notes that the applicant's mother lives in Florida and the applicant lives in Massachusetts, hundreds of miles apart. As such, the applicant's mother presumably has a support network nearby as the applicant lives many hours away and due to said distance is unable to assist her on a day to day basis. 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)).

The AAO recognizes that the applicant's mother will endure hardship as a result of separation from the applicant. However, her situation, if she remains 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 removed from the United States.

As for the financial hardship referenced by the applicant's mother, the AAO notes that 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."); *Shoostary 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).

No evidence has been provided with the appeal that establishes the applicant's and his mother's financial situation, including income and expenses, assets and liabilities. The applicant has thus failed to show that his absence will cause extreme financial hardship to the applicant's mother. Nor has the applicant documented that his mother is unable to obtain financial support from her siblings and/or children should the need arise. In addition, the applicant has not established that were he removed, he would be unable to obtain employment abroad and assist in supporting his mother. As such, the AAO concludes that although the applicant's mother may need to make alternate arrangements with respect to her own care were the applicant removed, it has not been established that such arrangements would cause the applicant's mother extreme hardship.

The AAO notes that extreme hardship to a qualifying relative must also be established in the event that he or she accompanies the applicant abroad based on the denial of the applicant's waiver request. In this case, the applicant has not asserted any reasons why the applicant's mother is unable to relocate to Haiti, her birth country, or any other country of their choosing, to accompany the applicant were he removed.

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 mother would suffer extreme hardship if he were not permitted to remain in the United States, and moreover, the applicant has failed to show that his lawful permanent resident mother would suffer extreme hardship were she to relocate abroad with the applicant based on his inadmissibility. 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. The waiver application is denied.