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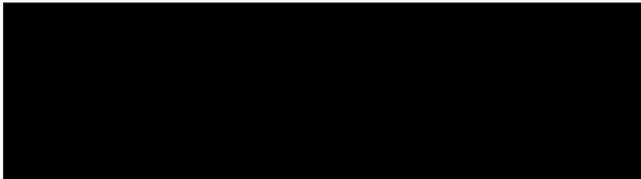
U.S. Department of Homeland Security  
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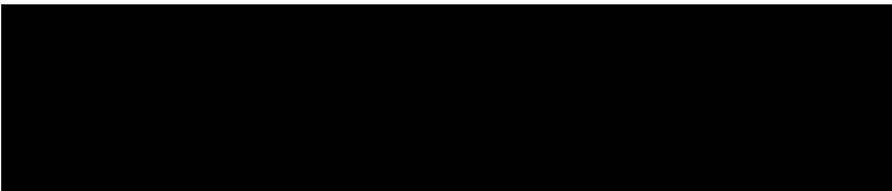


FILE: [REDACTED] Office: PHOENIX, ARIZONA Date: **MAY 01 2008**

IN RE: [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), 8 U.S.C. section 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, Phoenix, Arizona, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of the Mexico who was found 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 admission to the United States by fraud or willful misrepresentation. The applicant is the beneficiary of an approved Alien for Relative Petition (Form I-130) filed by her U.S. citizen sister and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with her lawful permanent resident mother.

The record reflects that the applicant attempted to obtain admission into the United States on August 31, 1993 and again on September 18, 1995 by making false claims to U.S. citizenship. The applicant filed an Application to Register Permanent Residence or Adjust Status (Form I-485) on April 12, 2004. The applicant filed an Application for Waiver of Grounds of Inadmissibility (Form I-601) on February 8, 2006.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the waiver application accordingly. *Decision of District Director*, dated March 27, 2006.

On appeal, the counsel contends that the evidence submitted establishes extreme hardship and submits additional letters from the applicant and her mother. The record contains letters from the applicant and her mother, letters from family members and other acquaintances, medical records, and financial records submitted with the applicant's adjustment application. The entire record was 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.

As stated above, the record reflects that the applicant attempted to obtain admission into the United States on August 31, 1993 and again on September 18, 1995 by making false claims to U.S. citizenship. The applicant has not disputed that she is inadmissible under section 212(a)(6)(C) of the Act.

A waiver of inadmissibility under section 212(i) of the Act is dependent upon a showing that the bar to admission imposes an extreme hardship on a qualifying relative, *i.e.*, the U.S. citizen or lawfully resident spouse or parent of the applicant. Hardship to the applicant, her husband and their children is not relevant under the statute and will be considered only insofar as it results in hardship to a qualifying relative in the application. The applicant's lawful permanent resident mother is the only qualifying relative. If extreme hardship to a qualifying relative is established, the Secretary then assesses whether an exercise of discretion is warranted. *See Matter of Mendez-Morales*, 21 I&N Dec. 296 (BIA 1996).

The concept of extreme hardship to a qualifying relative “is not . . . fixed and inflexible,” and whether extreme hardship has been established is determined based on an examination of the facts of each individual case. *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565 (BIA 1999). In *Matter of Cervantes-Gonzalez*, the Board of Immigration Appeals set forth a list of non-exclusive factors relevant to determining whether an applicant has established extreme hardship to a qualifying relative pursuant to section 212(i) of the Act. These factors include, with respect to the qualifying relative, the presence of family ties to U.S. citizens or lawful permanent residents in the United States, family ties outside the United States, country conditions where the qualifying relative would relocate and family ties in that country, the financial impact of departure, and significant health conditions, particularly where there is diminished availability of medical care in the country to which the qualifying relative would relocate. *Id.* at 566.

Relevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists. In each case, the trier of fact must consider the entire range of factors concerning hardship in their totality and determine whether the combination of hardships takes the case beyond those hardships ordinarily associated with deportation.

*Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996) (citations omitted).

The Ninth Circuit Court of Appeals has stated, “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). Separation of family will therefore be given appropriate weight in the assessment of hardship factors in the present case.

An analysis under *Matter of Cervantes-Gonzalez* is appropriate. The AAO notes that extreme hardship to a qualifying relative must be established in the event that she accompanies the applicant or in the event that 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.

The record, reviewed in its entirety and in light of the *Cervantes-Gonzalez* factors, cited above, does not support a finding that the applicant’s mother faces extreme hardship if the applicant is not granted a waiver of inadmissibility.

In her letter submitted on appeal, the applicant’s mother indicates that she lives with the applicant and requires the applicant’s presence because of her medical condition. She states that the applicant provides her “moral support.” She asserts that in Mexico, she will be unable to pay for medical treatment.

In the decision denying the waiver application, the district director reviewed the medical documentation and considered the applicant’s mother’s medical condition as a hardship factor, but determined:

Although medical records show your mother has diabetes, no evidence was submitted to show that this illness could not be adequately treated in Mexico if she opted to join you. Though your mother states you are need[ed] to take her to the doctor, no evidence was submitted to show that other family members could accompany your mother to her medical appointments when necessary. Though the doctor's letter states your mother needs family support due to her disease, there is nothing in the letter stating you are the only family member than [sic] provide that support or that her illness is so severe it would require your presence in the United States.

The AAO concurs with this determination. Though the applicant's mother has indicated that the applicant provides "moral support" and assistance in dealing with her medical condition, there is insufficient evidence showing that the applicant's mother will suffer extreme hardship—physically, emotionally or otherwise—if she and the applicant are separated. The applicant has not submitted evidence detailing the extent to which she provides assistance to her mother beyond her mother's assertion that the applicant takes her to her doctor's appointments, and the record does not show that the applicant's mother is dependant on the applicant financially. The record also shows that the applicant's siblings reside in the United States. The AAO recognizes that there is hardship inherent in the separation of family members, but notes that the Ninth Circuit in both *Salcido-Salcido* and *Cerrillo-Perez* considered the hardship of separating parents from minor dependent children, not the hardship involved in separating a married adult child from a non-dependent parent. The hardship described by the applicant and her mother is the typical result of removal or inadmissibility and it does not rise to the level of extreme hardship based on the record. The U.S. court decisions have repeatedly held that the common results of removal or inadmissibility are insufficient to prove extreme hardship. See *Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991). 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.

The AAO also concurs with the district director's determination that the applicant's spouse would not suffer extreme hardship if she chose to return to Mexico with the applicant. The applicant's mother is a native of Mexico. It is noted that she would be separated from the applicant's siblings and other family members if she returned to Mexico, but the applicant's mother has failed to state the extent to which this separation would constitute hardship to her. She has indicated that she would be unable to pay for medical treatment in Mexico, but she has not submitted any additional evidence to support this assertion. Although the statements by the applicant's mother are relevant and have been taken into consideration, little weight can be afforded them in the absence of supporting evidence. *Matter of Kwan*, 14 I&N Dec. 175 (BIA 1972) ("Information in an affidavit should not be disregarded simply because it appears to be hearsay; in administrative proceedings, that fact merely affects the weight to be afforded it."). 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 this case, the record does not contain sufficient evidence to show that the hardships faced by the qualifying relative, considered in the aggregate, rise beyond the common results of removal or inadmissibility to the level of extreme hardship. The AAO therefore finds that the applicant has failed to establish extreme hardship to her lawful permanent resident mother as required under section 212(i) of the Act. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether she 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 rests 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.