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U.S. Citizenship
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FILE: [Redacted] Office: LIMA, PERU
(LMA 19 965 65012)

Date: NOV 17 2008

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:

SELF-REPRESENTED

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 cursive script that reads "Michael Shumway".

for
John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The Application for Waiver of Grounds of Inadmissibility (Form I-601) was denied by the Officer in Charge, Lima, Peru. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and the Form I-601 denied.

The applicant is a native and citizen of Peru who was found to be inadmissible to the United States 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). The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The officer in charge determined that the applicant had failed to establish a qualifying family member would suffer extreme hardship if the applicant were refused admission into the United States. The Form I-601 was denied accordingly.

On appeal, the applicant indicates that his U.S. citizen mother will suffer extreme emotional and physical hardship if he is denied admission into the United States, and he asks that U.S. Citizenship and Immigration Services (CIS) waive his ground of inadmissibility.

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

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.

The record reflects that on November 21, 1993, the applicant sought admission into the United States by using a fraudulently obtained passport. Accordingly, the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act.

Section 212(a)(6)(C)(i) of the Act is a permanent bar to admission into the United States. A waiver of inadmissibility is, however, available under section 212(i) of the Act.

Section 212(i)(1) of the Act provides that:

The Attorney General [now Secretary, Department 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.

The record reflects that the applicant's mother and father are U.S. citizens. The applicant's parents are thus qualifying family members for section 212(i) of the Act waiver of inadmissibility purposes.

In *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565-66 (BIA 1999), the Board of Immigration Appeals (Board) provided a list of factors that it deemed relevant in determining whether an alien had established extreme hardship. The factors included 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 Board held in *Matter of Ige*, 20 I&N Dec. 880, 882, (BIA 1994), that, "relevant [hardship] factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists."

"Extreme hardship" has been defined as hardship that is unusual or beyond that which would normally be expected upon deportation. See *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996.) Court decisions have repeatedly held that the common results of deportation or exclusion [now, removal or inadmissibility] are insufficient to prove extreme hardship. See *Perez v. INS*, *supra*. See also, *Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991).

The record contains the following evidence relating to the applicant's waiver of inadmissibility, extreme hardship claim:

A letter written by the applicant indicating in pertinent part that his mother's health has been affected by his immigration situation and his separation from the family. The applicant states that his mother has high blood pressure and chronic coronary illness, and he states that his mother needs to be calm in order to get better, but that she cannot remain calm while he continues to live in Peru, away from his mother and his family.

A letter written by the applicant's mother () reflecting in pertinent part that she wants the applicant to go to school and to get a better job in the United States, and that she wants him to help support and care for her in the United States. Ms. () indicates that she feels obligated to work and help support the applicant financially while he lives in Peru, and she indicates that she would not have to work as much if the applicant were in the United States. () states that she has high blood pressure and heart problems, and she indicates that her health has gotten worse since the applicant's Form I-601 was denied. She states that she takes several medications for "high blood pressure, mix dislipidemy and chronical coronary illness," and she indicates that with the applicant's help in the U.S., she could rest more and improve her health condition.

A letter from the applicant's father () stating in pertinent part that he wants his son to have a better life, and that he knows the applicant's mother and siblings are suffering because the applicant is the only family member who is not with them in the United States.

March 2006 medical reports from Capital Area Medical Group (based on medical exams done in Peru) reflecting that () has hypertension, mild hyperlipidemia, and vascular calcifications.

June 2006 Peruvian medical reports reflecting that () has high blood pressure – level 2, mix dislipidemy, and chronic coronary illness. Ms. () received the following prescriptions in Peru: Anti hypertenxives – Dislipidemics – Acetil Salicilic Acid – Coronary dilatator vesels – diet (hypo-fat, hypo-sodic.) An additional Cardiac Report reflects that Ms. () has light hypertensive cardiopathy. No related prescriptions or treatments are noted.

Letters from the applicant's brother and two sisters indicating in pertinent part that their family, especially their mother, is continuously distressed about the applicant's separation from his family. The letters indicate that their mother's health has deteriorated since the denial of the applicant's Form I-601, and they indicate that due to their own family and financial obligations,

they find it difficult to care for their mother. The letters indicate that the applicant would be better able to care and provide for their mother because he has no spousal or child obligations.

The record also contains statements and letters attesting to the applicant's good character. This evidence pertains to whether or not discretion should be exercised favorably in the applicant's case. It does not pertain to hardship that a qualifying relative would suffer.

The AAO finds, upon review of all of the evidence, that the applicant failed to establish that his mother or father would suffer hardship beyond that normally experienced upon removal of a family member, if the applicant is denied admission into the United States. The letter written by the applicant's father does not express any hardship that [REDACTED] would suffer if the applicant were denied admission into the United States, and the record contains no other evidence to indicate or establish that [REDACTED] would experience extreme hardship either in the U.S. or in Peru, if the applicant's Form I-601 were denied.

The applicant also failed to establish that his mother would suffer extreme hardship if his Form I-601 were denied. The evidence in the record fails to demonstrate that the applicant's mother would suffer physical, emotional or financial hardship beyond that normally experienced upon the removal of a family member if she remained in the United States without the applicant. The medical evidence contained in the record fails to establish that the applicant's mother suffers from a physical or emotional condition that was caused by the applicant's absence from the United States, or that her condition would become better if the applicant were admitted into the United States. The record reflects that [REDACTED] condition is being treated with daily prescriptive medications obtained in Peru, and the record lacks corroborative evidence to establish that the applicant's mother requires special care, or that her other children are unable to provide care and support to their mother. The AAO notes further the U.S. Supreme Court holding that, "[t]he mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship." *See INS v. Jong Ha Wang*, 450 U.S. 139 (1981).

The applicant did not assert that his mother would suffer extreme hardship if she relocated to Peru to be near the applicant. The applicant therefore also failed to establish that his mother would experience hardship beyond that normally experienced upon the removal of a family member if the applicant were denied admission into the United States, and his mother and father moved to Peru with him.

The AAO notes that a section 212(i)(1) of the Act waiver of inadmissibility is dependent first upon a showing that the bar to admission imposes an extreme hardship on a qualifying family member. If extreme hardship is established, CIS then assesses whether an exercise of discretion is warranted. Because the applicant failed to establish that his mother or father would suffer extreme hardship if he were denied admission into the United States, addressing whether discretion should be exercised in the present matter serves no purpose.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is on the applicant to establish eligibility for the benefit sought. The applicant has failed to meet his burden of proof in the present matter. The appeal will therefore be dismissed, and the Form I-601 will be denied.

ORDER: The appeal is dismissed. The application is denied.