

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

#2



FILE: [REDACTED] Office: PHOENIX, AZ Date: APR 30 2009

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)

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.

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 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 Mexico who was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for having entered the United States by fraud or willful misrepresentation. The applicant is married to a naturalized U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside with his wife and children in the United States.

The district director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the application accordingly. *Decision of the District Director*, dated February 6, 2007.

The record contains, *inter alia*: a letter from the applicant's wife, [REDACTED], a letter from the applicant; a copy of the couple's marriage certificate indicating they married on December 22, 2004; a copy of [REDACTED] naturalization certificate; letters from [REDACTED]'s friends and co-workers; a letter from [REDACTED] doctor; conviction documents indicating the applicant pled guilty to driving under the influence; documentation indicating the applicant completed a driving under the influence program; a letter from [REDACTED]'s employer; tax documents; and a copy of an approved Petition for Alien Relative (Form I-130). The entire record was reviewed and considered in rendering this decision.

Section 212(a)(6)(C)(i) of the Act provides:

In general.—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) provides:

(1) The Attorney General [now Secretary of Homeland Security] may, in the discretion of the Attorney General [now Secretary of Homeland Security], 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 [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully permanent resident spouse or parent of such an alien. . . .

The district director found, and the applicant does not contest, that during a consular interview on January 19, 2006, the applicant admitted he had willfully failed to disclose his previous presence in the United States in order to procure a visa. Therefore, the applicant is inadmissible under section

212(a)(6)(C)(i) of the Act for willfully misrepresenting a material fact in order to procure admission into the United States.

A section 212(i) waiver of the bar to admission resulting from violation of section 212(a)(6)(C)(i) 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. *See* Section 212(i)(1) of the Act, 8 U.S.C. § 1182(i)(1). 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 Bureau of Immigration Appeals deems relevant in determining whether an alien has established extreme hardship under 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.

In this case, the applicant's wife, [REDACTED] states that she is the daughter of immigrants and knows how hard it was for her emotionally and financially to have been separated from her parents. [REDACTED] states that she has since obtained U.S. citizenship and that she now wants the same for her own family. She claims her oldest child, who is seven years old, was abandoned by her biological father and has only known the applicant as her father. [REDACTED] further states that she does not want her younger child, who is four years old, to be separated from his father. She states that it would be very stressful for both of the children to be separated from their father, that the entire family would be devastated if the applicant departed the United States, and that "it would cause [REDACTED] to . . . relocate outside this country that in itself would cause the greatest hardship of all [because i]t would take away the dreams that [her] parents had for [her] and the future that [she] dream[s] of for [her] children. . . ." [REDACTED] also states she could not financially support her family on her own without the applicant's help. *Letter from* [REDACTED], dated December 27, 2006. In her appeal, [REDACTED] claims she would suffer extreme hardship from both a mental health perspective and a physical perspective if her husband's waiver application were denied. *Letter from* [REDACTED], dated February 20, 2007.

In addition to the two letters from [REDACTED] the record also contains several letters from Ms. [REDACTED] friends and colleagues, many of whom are professional counselors and health care professionals. These letters conclude that [REDACTED] would suffer extreme hardship if her husband were deported. For instance, a letter from [REDACTED], a professional counselor who has known [REDACTED] "for many years, through work and as a friend," states that she has "counseled [REDACTED] on many occasions, as [REDACTED] has an Anxiety Disorder that left untreated would lead to her incapacity to perform even minimal daily chores." [REDACTED] also

states that "takes medication but that does not help when there is any additional anxiety producing stressors." claims that living in Mexico would prevent from having "access to the level of care she is in need of frequently." further states that if moves to Mexico, she will have increased anxiety by being away from her family in Arizona and will not have the ability to be effectively treated. In addition, asserts that will not have the financial stability in Mexico that she now enjoys, further increasing her anxiety. concludes that:

in my professional opinion disability would be increasingly debilitating to her and could lead to loss of life in additional health risks or suicide if she was to be removed from her country of choice. Left alone to raise her children . . . would be equally devastating to [ ] and her children and is an extreme hardship.

further states that she is writing a letter of support both as a professional therapist and as a long time friend of and that "losing [the applicant] to the immigration process would be emotionally, mentally, and financially a loss to [ ] family. Letter from dated February 20, 2007.

a licensed professional counselor who has known for nearly five years, states that suffers from anxiety and depression, and that "the denial of the waiver for her husband is causing her severe emotional stress, financial stress, and appears to be detrimental to both her mental and physical health by exacerbating already existing conditions." He concludes that "it would be detrimental to [ ] and her children if her husband were forced to leave their home." Letter from dated January 9, 2007. , a registered nurse who has known for eighteen years, states that "to separate [the applicant] from his wife would be horrible and bring hardship of every way imaginable from financial to emotional." Letter from dated January 4, 2007. a social worker states that "[a]s a personal friend and professional co-worker of . . . I can attest that would suffer extreme mental distress and hardship should her husband not be granted permanent residency." Letter from dated December 28, 2006. The record also includes a letter from stating that has carpal tunnel syndrome and "has suffered from some mild anxiety." It is noted that the letter does not indicate what Ms. training or medical qualifications are. Letter from dated February 14, 2007

After a careful review of the record evidence, there is insufficient evidence showing that the applicant's wife would suffer extreme hardship as a result of the applicant's waiver application being denied.

The AAO recognizes that will endure hardship as a result of the denial of her husband's waiver application and is sympathetic to the family's circumstances. However, there is insufficient evidence in the record to show that the hardship she would experience if the applicant's

waiver application were denied rises to the level of extreme hardship. Although the input of any mental health professional is respected and valuable, the AAO notes that the letters in the record are exclusively from [REDACTED] friends and colleagues. In addition, the letters from [REDACTED] friends and colleagues make conclusive statements without providing sufficient background or details. For instance, several of the letters discuss [REDACTED] anxiety disorder and depression. *See, e.g., Letters from [REDACTED] supra; Letters from [REDACTED] supra.* However, there is no psychological evaluation in the record and no evidence regarding who, if anyone, diagnosed [REDACTED] with these disorders. Similarly, although one letter mentioned that [REDACTED] "takes medication," *Letter from [REDACTED]*, dated February 20, 2007, the name of the medication is not specified and [REDACTED] herself does not claim to take any medications. Furthermore, although [REDACTED] claims that [REDACTED] would not have access to the level of care she needs if she moved to Mexico, it is unclear specifically what care [REDACTED] requires. Moreover, although [REDACTED] describes [REDACTED] as "my therapist," and [REDACTED] claims she has "counseled [REDACTED] on many occasions," even assuming [REDACTED] is receiving mental health services from her "long time friend" of over ten years, there are no details regarding how long [REDACTED] has purportedly been in counseling in the past or what treatment she requires. *Letter from [REDACTED]*, dated February 20, 2007; *Letters from [REDACTED] supra.*

With respect to her carpal tunnel syndrome, [REDACTED] does not address how it affects her daily life or whether she needs assistance because of it. In addition, the letter from [REDACTED] does not discuss the prognosis or severity of [REDACTED] carpal tunnel syndrome. Without more detailed information, the AAO is not in the position to reach conclusions regarding the severity of [REDACTED]'s anxiety, depression, and carpal tunnel syndrome, or the treatment and assistance needed.

Regarding [REDACTED] financial hardship claim, the record shows that in 2002, she earned \$19,990; in 2003, she earned \$20,728; and in 2004, she earned \$17,878. Although [REDACTED] claims she will be unable to financially support her children without the applicant's assistance, *Letter from [REDACTED]* dated December 27, 2006, there is no evidence addressing to what extent, if any, the applicant helps to support the family. The tax documents in the record indicate only [REDACTED], not the applicant's, wages. Although there is a letter from [REDACTED] employer, there is no evidence from any employer verifying the applicant's past or current employment. Without more detailed information, the AAO is not in the position to attribute [REDACTED] financial difficulties to the applicant's departure. In any event, even assuming some economic hardship, as the U.S. Supreme Court held in *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship. *See also 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).

Furthermore, aside from mentioning that relocating to Mexico would take away the dreams [REDACTED] parents have for her and the dream she has for her own children, *Letter from [REDACTED]*

██████████ dated December 27, 2006, there is insufficient evidence that moving back to Mexico, where she was born, would cause extreme hardship. If ██████████ chooses to remain in the United States, their situation 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. The Board of Immigration Appeals and the Courts of Appeals have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. 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. *See also Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991) (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).

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's wife 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(a)(6)(C) 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.