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U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
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U.S. Citizenship and Immigration Services

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[redacted]

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FILE: [redacted] Office: CHICAGO, IL Date: MAY 07 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:

[redacted]

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 Acting District Director, Chicago, Illinois, 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 the son of 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 mother in the United States.

The acting 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 Acting District Director*, dated June 7, 2006.

On appeal, counsel contends the acting district director's decision is factually and legally incorrect because the decision incorrectly states that the applicant has a U.S. citizen spouse and the applicant established his U.S. citizen mother would suffer extreme hardship if his waiver application were denied.

The record contains, *inter alia*: an affidavit from the applicant's mother, [redacted] an affidavit from the applicant; copies of [redacted] medical records; several articles regarding health care and depression; tax documents; letters from the applicant's and [redacted] employers; 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 record shows, and the applicant admits, that he entered the United States in 1989 using a green card that did not belong to him. *Affidavit of* dated June 3, 2005. Therefore, the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act for fraud and 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 mother claims she depends on the applicant a lot. states that the applicant helps her with her three children (the applicant's step-siblings) because she is separated from the children's father and she is working. She states the applicant has helped her fix her car, a leaky ceiling, and a broken light and that he cleans the house and does other household chores. further states that all seven of her children live in Chicago and she does not want any of her children to be forced to live outside of the United States. She claims she would be worried about the applicant living in Mexico as they have no family there. In addition, states that she worked twelve-hour days to get her children to the United States and that she does not have to work as much now that they are all here. She contends that if the applicant is deported to Mexico, she will not be able to afford to visit him. Furthermore, states that she has been treated for depression in the past and that about five years ago, the father of her three youngest children left her. She states she was devastated and that one day, she locked herself in the bathroom, told the kids to go to their father's house, and "would have tried to cut [herself] with a knife" if they had gone. However, daughter called the applicant who went to live with his mother for a year, convincing her not to kill herself. contends the applicant "literally saved [her] life," and states that she fears becoming depressed again if the applicant's waiver application is denied. *Letter from* dated June 2, 2005.

After a careful review of the record evidence, there is insufficient evidence showing that the applicant's mother 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 son'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. claims she has been diagnosed with depression, was suicidal at one time after the father of her youngest three children left her, and "ha[s] been treated in the past for depression." *Affidavit from* *supra.* However, although the record contains copies of medical records, there is no letter in plain language from a physician, counselor, therapist, or any health care professional substantiating her claim. As such, there is no evidence describing the diagnosis, treatment, prognosis, or severity of history of depression. Rather, the progress notes in the record indicate "depression – resolved," and herself states she has never taken any medication for depression. *See Affidavit from* *supra*; *Progress Notes,* dated April 30, 1997. Although articles in the record state that "Hispanics in general are extremely reluctant to admit overall feelings of depression," *How Latinos Approach Healthcare Issues*, dated March 2002, and "[m]ost people with a depressive illness do not seek treatment," *Depression, Dep't of Health and Human Svcs*, dated September 2002, these generalities are inapplicable in case as she claims she has sought and been treated for depression in the past. Going on record without any supporting documentary evidence is insufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (BIA 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Without more detailed information, the AAO is not in the position to reach conclusions regarding the severity of depression and possible suicidal tendencies, or the treatment and assistance needed.

Furthermore, aside from mentioning how hard she has worked in order to raise her children in the United States, does not discuss the possibility of moving back to Mexico, where she was born, to avoid the hardship of separation, and she does not address whether such a move would represent a hardship to her. If chooses to remain in the United States, her 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).

To the extent asserts that she would not be able to afford a trip to Mexico to visit the applicant should he be removed from the United States, her contention is unpersuasive as has five other children who are now at least eighteen years old who "are all able to help [her.]" *Affidavit from* *supra* ("Now that [my children] are here, I don't have to work as much. They are all able to help me.").

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's mother 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.