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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

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H2.

FILE:

Office: MEXICO CITY (CIUDAD JUAREZ)

Date: **SEP 01 2009**

(CDJ 194 261 9206 relates)

IN RE:

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, Mexico City, Mexico. The matter 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 fraud or willful misrepresentation. The applicant 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 lawful permanent resident mother in the United States.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the District Director*, undated.

The record contains, *inter alia*: a letter from the applicant; a letter from the applicant's mother, [REDACTED]; a copy of [REDACTED] lawful permanent resident card; copies of the birth certificates of the applicant's three U.S. citizen children; and a copy of an approved Petition for Alien Relative (Form I-130). The entire record was reviewed and considered in rendering this decision.¹

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. . . .

¹ The record contains a Form G-28, Notice of Entry of Appearance as Attorney or Representative (Form G-28), however the individual who submitted the Form G-28 is not an attorney or authorized representative as defined in 8 C.F.R. § 1.1(f) and as required by 8 C.F.R. §§ 103.2 and 292.1. All submissions will be considered but the decision will be furnished only to the applicant.

The district director found, and the applicant does not contest, that the applicant entered the United States without inspection at least three times and lied to a U.S. consular officer regarding his previous unlawful entries. Therefore, the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act for attempting to enter the United States through fraud or willful misrepresentation of a material fact.

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 Board 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.

It is not evident from the record that the applicant's mother would suffer extreme hardship as a result of the applicant's waiver being denied.

In this case, the applicant states that he made many mistakes in his life, including entering the United States illegally and being deported to Mexico as a result. He states that it seemed like a "minor problem[]" at the time and that he is sorry for omitting these previous unlawful entries during his consular interview. The applicant states he is a taxi driver and has four U.S. citizen children, three with his current partner. He contends his children are financially dependent on him, and that he wants his children to have the opportunity to study and have a better standard of life in the United States. In addition, the applicant states that his entire family lives in the United States, including his mother and three siblings, all of whom are lawful permanent residents or U.S. citizens. The applicant states his mother has serious health problems and needs his financial help. He contends his mother can no longer work full-time and that she takes care of the applicant's sons. *Letter from* [REDACTED], dated June 30, 2006.

The applicant's mother, [REDACTED] states that she is "currently passing through financial difficulties." She claims she is diabetic and that she must pay for hospital check-ups and medication. In addition, [REDACTED] states that the applicant's children are U.S. citizens and "should not be penalized for [the applicant's] alienship." [REDACTED] contends she would take

responsibility for her grandchildren, but lacks the financial means to support them. *Letter from* [REDACTED] dated December 26, 2005.

Upon a complete review of the record evidence, the AAO finds that there is insufficient evidence to show that the applicant's mother will experience extreme hardship if the applicant's waiver application were denied.

The AAO recognizes that [REDACTED] has endured hardship since her son departed the United States and is sympathetic to the family's circumstances. However, there is insufficient evidence in the record to show that the level of hardship rises to the level of extreme hardship. Significantly, [REDACTED] 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 be a hardship to her. Rather, their situation, if [REDACTED] remains in the United States, is typical to individuals separated as a result of deportation or exclusion. 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. *See also Perez v. INS, supra* (holding that the common results of deportation are insufficient to prove extreme hardship); *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).

With respect to [REDACTED] financial hardship claim, there is insufficient evidence in the record to show extreme financial hardship. [REDACTED] does not give any details regarding her financial situation. There is no information addressing [REDACTED] monthly expenses, such as rent or mortgage. There are no tax or financial documents in the record, no evidence from employers verifying the applicant's employment or wages, and no evidence documenting the extent to which the applicant helped support his mother while he was in the United States. Without more detailed information, the AAO is not in the position to conclude that the denial of the applicant's waiver application causes extreme financial hardship to [REDACTED]. In any event, 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).

Regarding [REDACTED] diabetes and other purported "serious health problems," there is no documentation in the record to support the applicant's claim. There is no letter from any health care professional and no copies of any medical records addressing [REDACTED]'s health conditions. [REDACTED] herself states only that she has diabetes, but does not describe how it affects her daily life, if at all. There is no evidence addressing the severity of [REDACTED] diabetes or the treatment she requires, if any. There is no indication [REDACTED] requires any assistance for her diabetes or any other medical condition. Without more detailed information, the AAO is not in the position to

reach conclusions regarding the severity of a medical condition or the treatment and assistance needed.

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.