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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Office of Administrative Appeals
20 Massachusetts Ave. NW MS 2090
Washington, DC 20529-2090

U.S. Citizenship
and Immigration
Services

DATE: **JAN 08 2013**

OFFICE: MONTERREY, MEXICO

IN RE:

Applicant:

APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(a)(9)(B)(v) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B)(v)

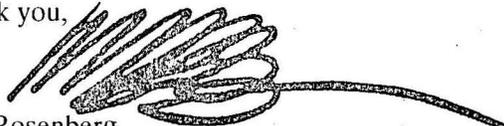
ON BEHALF OF APPLICANT:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Monterrey, Mexico 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)(9)(B)(i)(II) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year and seeking readmission within 10 years of his last departure from the United States. The applicant seeks a waiver of inadmissibility under section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v), in order to reside in the United States with his U.S. citizen spouse and children.

The Field Office Director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility accordingly. *See Decision of the Field Office Director*, dated August 3, 2011. The Field Office Director further found that even had extreme hardship been established, the negative factors in the applicant's case, particularly his violations of immigration law and criminal law, outweigh any positive factors and his application should be denied as a matter of discretion. *Id.*

On appeal counsel asserts that the totality of the circumstances, evidence, and information establishes extreme hardship to the applicant's spouse and that the applicant's positive factors outweigh the negative such that a discretionary denial is not warranted. *See Counsel's Appeal Brief*, received October 3, 2011.

The record contains, but is not limited to: Form I-290B, counsel's brief and supplementary letter; prior counsel's brief in support of a waiver; various immigration applications and petitions; numerous hardship letters; letters of support, concern and character reference; medical records and related internet article printouts; employment-related records; financial records; marriage and birth certificates and family photos; country conditions documents for Mexico; the applicant's removal proceedings and voluntary departure record; and the applicant's criminal record. The entire record was reviewed and considered in rendering this decision on the appeal.

Section 212(a)(9) of the Act provides:

(B) ALIENS UNLAWFULLY PRESENT.-

(i) In general.- Any alien (other than an alien lawfully admitted for permanent residence) who- ...

(II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States, is inadmissible.

The record reflects that the applicant entered the United States without inspection in or about June 2001 and remained until he departed on May 24, 2010 pursuant to an immigration judge's order granting him voluntary departure in lieu of removal. The applicant accrued unlawful presence his

entire time in the United States, a period in excess of one year. As the applicant is seeking admission within 10 years of his departure, he was found to be inadmissible pursuant to section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II). The record supports this finding, the applicant does not contest inadmissibility, and the AAO concurs that the applicant is inadmissible under section 212(a)(9)(B)(i)(II) of the Act.

While the field office director noted that the applicant has a number of criminal convictions, he declined to analyze whether any of said convictions were for crimes involving moral turpitude which would render the applicant additionally inadmissible under section 212(a)(2)(A)(i) of the Act.

Section 212(a)(2)(A) of the Act states, in pertinent parts:

(i) [A]ny alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of –

(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime . . . is inadmissible.

(ii) Exception.—Clause (i)(I) shall not apply to an alien who committed only one crime if-

(I) the crime was committed when the alien was under 18 years of age, and the crime was committed (and the alien was released from any confinement to a prison or correctional institution imposed for the crime) more than 5 years before the date of the application for a visa or other documentation and the date of application for admission to the United States, or

(II) the maximum penalty possible for the crime of which the alien was convicted (or which the alien admits having committed or of which the acts that the alien admits having committed constituted the essential elements) did not exceed imprisonment for one year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment in excess of 6 months (regardless of the extent to which the sentence was ultimately executed).

The record shows that the applicant was convicted in Nebraska on five occasions between August 2002 and August 2008. It is noted that in connection with the applicant's first four arrests and convictions, he falsely identified himself to law enforcement as "[REDACTED]" and only in connection with his fifth arrest and conviction – for criminal impersonation, was the applicant's true identity discovered by or disclosed to law enforcement.

The applicant was charged on August 15, 2002 with Driving While Intoxicated, in violation of Nebraska Revised Statute (NRS) section 60-6, 196, a Class W Misdemeanor; Leaving the Scene of a Property Damage Accident, in violation of NRS § 60-696, a Class III Misdemeanor; and

Operating a Vehicle with No Operator's License, in violation of NRS § 60-484, a Class III Misdemeanor, for his conduct on July 19, 2002. He entered a plea on September 3, 2002 through which counts two and three were dropped and he was convicted of Driving While Intoxicated, 1st Offense. The applicant was sentenced on October 2, 2002 to a nine-month term of probation, a \$400 fine, 30-days in jail, and the suspension of his driver's license for 60 days.

The applicant was charged on April 8, 2003 with three counts of Procuring Alcohol for a Minor, in violation of NRS § 53-180, a Class I Misdemeanor, for his conduct on March 9, 2003, while still on probation for his first Driving While Intoxicated conviction. On May 29, 2003 the applicant plead no contest to an amended complaint and was convicted of one count of Procuring Alcohol for a Minor and sentenced to a \$250 fine and costs.

The applicant was charged on November 6, 2005 with Driving While Intoxicated – 2nd Offense, in violation of NRS §§ 60-6, 196 and 60-6, 197.03(2)(A), a Class W Misdemeanor, for his conduct on November 6, 2005. The applicant plead guilty and was convicted on December 13, 2005 and was sentenced on February 14, 2006 to 35 days in county jail, a 12-month period of probation, a \$500 fine plus costs, and the revocation of his driver's license for 12 months.

The applicant was charged on April 27, 2006 with Driving a Motor Vehicle while under a Court Order Revoking/Impounding his Driver's License, in violation of NRS § 60-4, 108(1), a Class II Misdemeanor, for his conduct on April 23, 2006. He was convicted as charged on May 30, 2006 and sentenced on August 3, 2006 to 30 days in county jail, probation, and costs.

The applicant was charged on June 5, 2008 with one count of Criminal Impersonation - \$1,500 or more, in violation of NRS § 28-608(1)(a) Pen Sec 28-608(2)(a), 28-105, a Class III Felony, and one count of Prohibited Acts – Displaying an Unlawful Driver's License, in violation of NRS § 60-491(1), a Class III Misdemeanor, for his conduct between August 19, 2007 and September 30, 2007. The applicant entered a plea agreement whereby on August 15, 2008 he plead no contest, was adjudged guilty, and was convicted of Criminal Impersonation - \$200 to \$500, a Class I Misdemeanor, in violation of NRS § 28-608(2)(C). The applicant was fined \$200 and the second count was dropped.

Counsel contends that the applicant's criminal record "does not make him inadmissible." The AAO is not persuaded. While a "simple DWI" conviction does not ordinarily constitute a crime involving moral turpitude (CIMT) rendering one inadmissible under section 212(a)(2)(A)(i) of the Act, there are certain instances where a DWI conviction may indeed be a CIMT. For example under Arizona statutes § 28-697(A)(1) and § 28-1383(A)(1), a person may be found guilty of aggravated DWI by committing a DWI offense while knowingly driving on a suspended, cancelled or revoked license or by committing a DWI offense while on a restricted license due to a prior DWI. See *In Re. Lopez-Meza*, 22 I&N Dec. 1188 (BIA Dec. 21, 1999). The Board of Immigration Appeals (BIA) held that a person who drives under the influence while knowing that he is prohibited from driving commits a crime "so base and so contrary to the currently accepted duties that persons owe to one another and to society in general" that it is a crime involving moral turpitude. See *Id.* In the present case, while still on probation for his first DWI conviction, the applicant was convicted of Procuring Alcohol for a Minor. And while still on probation for his

second DWI conviction, the applicant was convicted of Driving on a Revoked License. While the applicant's continued disregard for the laws of Nebraska and the terms of his probation are troubling, neither of his post-DWI convictions were for driving under the influence while prohibited from driving. Thus it appears that none of the applicant's four alcohol-related convictions constitute a crime involving moral turpitude rendering him inadmissible under section 212(a)(2)(A)(i) of the Act. The AAO will, however, properly consider the applicant's full criminal record when analyzing whether he warrants a favorable exercise of discretion. Moreover, giving false information to law enforcement has often been found to constitute a crime involving moral turpitude. The record shows that the applicant identified himself to law enforcement as [REDACTED] in connection with four of his five convictions spanning from August 2002 to August 2006. While the applicant has not been separately convicted of giving false information to law enforcement, his conduct related thereto may be properly considered when analyzing whether he warrants a favorable exercise of discretion.

Concerning the applicant's conviction for Criminal Impersonation, NRS § 28-608 at the time of his conviction stated: "(1) A person commits the crime of criminal impersonation if he or she: (a) Assumes a false identity and does an act in his or her assumed character with intent to gain a pecuniary benefit for himself, herself, or another to deceive or harm another... (2)(c) Criminal impersonation is a Class I misdemeanor if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was two hundred dollars or more but less than five hundred dollars. Any second or subsequent conviction under this subdivision is a Class IV felony." As the elements of the crime require that the applicant demonstrate knowing intent through assuming a false identity to gain a pecuniary benefit to deceive or harm another, the AAO finds that his conviction for Criminal Impersonation likely constitutes a conviction for a crime involving moral turpitude rendering him inadmissible under section 212(a)(2)(A)(i) of the Act. However, the record lacks sufficient documentation or explanation in order for the AAO to fully assess the conduct for which the applicant was convicted under NRS § 28-608, and we are unable to determine whether the applicant was convicted of a crime involving moral turpitude that renders him inadmissible under section 212(a)(2)(A)(i)(I) of the Act. However, as the applicant remains inadmissible under section 212(a)(9)(B)(i)(II) of the Act and demonstrating eligibility for a waiver under section 212(a)(9)(B)(v) also satisfies the requirements for a waiver of criminal grounds of inadmissibility under section 212(h), the AAO need not make a definitive determination at this time as to whether the applicant is additionally inadmissible under section 212(a)(2)(A)(i)(I) of the Act.

A waiver of inadmissibility under section 212(a)(9)(B)(v) of the Act is dependent on a showing that the bar to admission imposes extreme hardship on a qualifying relative, which includes the U.S. citizen or lawfully resident spouse or parent of the applicant. Hardship to the applicant or his children can be considered only insofar as it results in hardship to a qualifying relative. In the present case, the applicant's spouse is his only qualifying relative. If extreme hardship to a qualifying relative is established, the applicant is statutorily eligible for a waiver, and USCIS then assesses whether a favorable exercise of discretion is warranted. *See Matter of Mendez-Moralez*, 21 I&N Dec. 296, 301 (BIA 1996).

Extreme hardship is “not a definable term of fixed and inflexible content or meaning,” but “necessarily depends upon the facts and circumstances peculiar to each case.” *Matter of Hwang*, 10 I&N Dec. 448, 451 (BIA 1964). In *Matter of Cervantes-Gonzalez*, the Board provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship to a qualifying relative. 22 I&N Dec. 560, 565 (BIA 1999). The 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. *Id.* The Board added that not all of the foregoing factors need be analyzed in any given case and emphasized that the list of factors was not exclusive. *Id.* at 566.

The Board has also held that the common or typical results of removal and inadmissibility do not constitute extreme hardship, and has listed certain individual hardship factors considered common rather than extreme. These factors include: economic disadvantage, loss of current employment, inability to maintain one’s present standard of living, inability to pursue a chosen profession, separation from family members, severing community ties, cultural readjustment after living in the United States for many years, cultural adjustment of qualifying relatives who have never lived outside the United States, inferior economic and educational opportunities in the foreign country, or inferior medical facilities in the foreign country. See generally *Matter of Cervantes-Gonzalez*, 22 I&N Dec. at 568; *Matter of Pilch*, 21 I&N Dec. 627, 632-33 (BIA 1996); *Matter of Ige*, 20 I&N Dec. 880, 883 (BIA 1994); *Matter of Ngai*, 19 I&N Dec. 245, 246-47 (Comm’r 1984); *Matter of Kim*, 15 I&N Dec. 88, 89-90 (BIA 1974); *Matter of Shaughnessy*, 12 I&N Dec. 810, 813 (BIA 1968).

However, though hardships may not be extreme when considered abstractly or individually, the Board has made it clear that “[r]elevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists.” *Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996) (quoting *Matter of Ige*, 20 I&N Dec. at 882). The adjudicator “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.” *Id.*

The actual hardship associated with an abstract hardship factor such as family separation, economic disadvantage, cultural readjustment, et cetera, differs in nature and severity depending on the unique circumstances of each case, as does the cumulative hardship a qualifying relative experiences as a result of aggregated individual hardships. See, e.g., *Matter of Bing Chih Kao and Mei Tsui Lin*, 23 I&N Dec. 45, 51 (BIA 2001) (distinguishing *Matter of Pilch* regarding hardship faced by qualifying relatives on the basis of variations in the length of residence in the United States and the ability to speak the language of the country to which they would relocate). For example, though family separation has been found to be a common result of inadmissibility or removal separation from family living in the United States can also be the most important single hardship factor in considering hardship in the aggregate. See *Salcido-Salcido*, 138 F.3d at 1293 (quoting *Contreras-Buenfil v. INS*, 712 F.2d 401, 403 (9th Cir. 1983)); but see *Matter of Ngai*, 19

I&N Dec. at 247 (separation of spouse and children from applicant not extreme hardship due to conflicting evidence in the record and because applicant and spouse had been voluntarily separated from one another for 28 years). Therefore, we consider the totality of the circumstances in determining whether denial of admission would result in extreme hardship to a qualifying relative.

The applicant's spouse is a 24-year-old native of Mexico and citizen of the United States who has been married to the applicant since August 2008. The couple has two-year-old daughter together and while a neurologist notes that a son was born to them in October 2011, no birth certificate or other documentation has been submitted for the record. The applicant's spouse explains that separation from the applicant was extremely difficult so she went to live with him in Chihuahua, Mexico in December 2010. She states that she would prefer to be in Mexico with her husband but did not have access to high-quality medical care there. The applicant's spouse returned to the United States in September 2011, with approximately one month remaining in her pregnancy.

The applicant's spouse maintains that she will suffer severe economic hardship without the applicant's care and attention to their family. The record contains no documentary evidence demonstrating the applicant's income while in the United States or showing that he ever contributed financially to their household. And while he indicates on Form G-325A, Biographic Information, that he was steadily employed from at least September 2005 to May 2008, no evidence has been submitted to show that he ever paid income taxes. The only tax return in the record, a joint return for 2008, includes four Form W-2 Wage and Tax Statements, all for the applicant's spouse. Going on record without supporting documentation is not sufficient to meet the applicant's burden of proof in this proceeding. *See 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)). The applicant's spouse writes in September 2011 that after the applicant departed in May 2010 she fell behind on bills and rent because her part-time job was not enough to support her and cover her childcare expenses. Her father writes in April 2010 that because the applicant's spouse was working and the applicant was not (since May 2008 according to the previously referenced Form G-325A) he has allowed them since August 2009 to live rent-free in a house he owns. Without explanation, in a letter written only five months later and after the applicant had departed for Mexico, the applicant's spouse's father contends that the applicant's spouse now "has to pay me \$250 for rent and will also have to pay the telephone bill if she wants to live in my home."

The applicant's spouse's mother writes in July 2010 that she had to close her business a number of times to care for the applicant's spouse and provide childcare for her granddaughter and has also lent the applicant's spouse \$800. She states that although she loves the applicant's spouse and granddaughter she is unable to take care of them as she has her own responsibilities. An employment verification letter from [REDACTED] indicates that the applicant's spouse was employed there from 2004 until at least December 21, 2009, the date of the letter. An employment verification letter from [REDACTED] Community College indicates that the applicant's spouse was employed there beginning in January 2010. An employment verification letter from [REDACTED] indicates that his autobody shop in Mexico has employed the applicant since December 2010 at a salary of approximately 1,200 pesos per week. The record does not indicate whether the applicant's spouse has returned to work at the college or elsewhere since

returning to the United States in September 2011. It does indicate, however, that she has received Medicaid and other public benefits since at least October 2009 when pregnant with her first child. The AAO acknowledges that the applicant's spouse has experienced economic difficulties in the applicant's absence. However, the evidence in the record is insufficient to demonstrate that she is unable to secure employment sufficient to support her and her children in the applicant's absence, her economic difficulties would be alleviated by his presence in the United States, or that such difficulties are distinguished from those ordinarily associated with the inadmissibility of a loved one.

The applicant's spouse states that while a student at the University of Nebraska [REDACTED] she received counseling for stress related to the applicant's immigration situation. A letter from [REDACTED] LIMHP, LCSW confirms that the applicant's spouse "received services within the UNK Counseling Care Office from 2/13/2008-4/29/2009. She met with a counselor based on issues that resulted from relationships and generalized stress." The applicant's spouse wrote in July 2010, prior to relocating to Mexico, that her health had declined in the applicant's absence. She stated that she was on medication at that time for depression, insomnia and terrible migraines, was unable to sleep because of sadness, and lost a considerable amount of weight. [REDACTED] MA, LIMHP, CPC, writes in July 2010 that the applicant's spouse initiated treatment on May 13, 2010 by coming in for an intake/assessment session and did not resume counseling until July 15, 2010. The May 2010 "Intake Note" indicates that while the applicant's spouse "self-reports depression, she failed to provide adequate information to meet criteria for a depressive disorder. Therefore, she does not currently meet the DSM criteria for depression." It lists as her diagnosis Adjustment Disorder with Depressed Mood, Acute (Principal), and rule-out major depressive order, single episode, unspecified, with postpartum features. Ms. [REDACTED] notes that she administered an Edinburgh Postnatal Depression Scale to the applicant's spouse in both May and July 2010 and that the results both times indicated "possible depression."

The applicant's spouse states that she has suffered from a number of medical conditions including cervical dysplasia beginning in 2005 and polycystic ovaries, and that she and the applicant underwent infertility treatment after they were married. She writes that she also began having problems with her gallbladder which had to be surgically removed on June 21, 2010. Corroborating evidence has been submitted for the record. Counsel asserts in a letter dated December 12, 2011 that the applicant's spouse has more recently "been suffering from migraines, dizziness and other symptoms as a result of a brain aneurysm." [REDACTED] M.D. writes on November 23, 2011 that the applicant's spouse was referred to him for a possible cavernous sinus aneurysm after experiencing in her third trimester of pregnancy periodic headaches that became more frequent and more intense by the third or fourth day postpartum. Dr. [REDACTED] writes that a brain MRA performed on November 15, 2011 revealed a mild diffuse fusiform dilation of the right cavernous carotid artery. He lists his impressions as: (1) Migraine; (2) Asymptomatic fusiform dilation of the right cavernous carotid artery; and (3) Possible cavernous sinus aneurysm. Dr. [REDACTED] states that he suspects the applicant's spouse will "turn out to have migraine." And while he suggested a consultation with a Dr. [REDACTED], no documents related to any such consultation have been submitted. While the AAO acknowledges that the applicant's spouse has experienced various gynecological conditions, adjustment disorder with depressed mood, and migraines that may be related to a possible sinus aneurysm, the evidence in the record does not

address or demonstrate that the applicant's presence in the United States is necessary for any medical treatment that may be required by his spouse in the future or for her general care.

The AAO acknowledges that separation from the applicant has and will likely continue to cause various difficulties for the applicant's spouse. The difficulties described, however, do not take the present case beyond those hardships ordinarily associated with removal of a family member, and the evidence in the record is insufficient to demonstrate that the challenges to the qualifying relative, when considered cumulatively, meet the extreme hardship standard.

Addressing relocation, the applicant's spouse indicates that she has been residing in the United States since approximately 1992 before she started kindergarten and her parents, uncles and other family members reside here lawfully. She states that if she was to relocate to Mexico, she would be starting a different life, getting accustomed to being separated from her family, trying to adapt to another country, and having to start all over in gaining a new community's trust whereas she has already established her reputable character in the United States. The applicant's spouse writes that she would be unable to further her education for free, it is much easier to get financial aid to go to college in the United States, and low pay in Mexico would affect the kind of education available to her children. The record contains no documentary evidence concerning education in Mexico and the AAO notes that the applicant's inadmissibility for unlawful presence expires in May 2020, well before the couple's children reach college age.

The applicant's spouse wrote in July 2010 that [REDACTED] is a great place to work. It is noted that she left the job five months later and voluntarily relocated to Mexico. Similarly the applicant's spouse wrote that she could not move to Mexico because she would be unable to see her mother daily. She indicates that she researched the job market in Mexico and would likely earn the equivalent of \$700 per month or half of what she earns in the United States. The applicant's spouse does not similarly address the cost of living in Mexico. She does not indicate specifically where and with whom she lived from December 2010 to September 2011 in Mexico, where the applicant's mother and all of his siblings reside. She states, however, that she did not have access to high-quality medical care because facilities in Mexico are of lesser quality than in the United States and those of higher quality she cannot afford. The applicant's spouse indicates that in the United States she has access to government medical programs such as Well Infant and Children (WIC) and Medicaid which are unavailable in Mexico. The record contains no documentary evidence addressing medical care, facilities or programs in Mexico.

The applicant's spouse wrote in July 2010 that moving to Chihuahua, Mexico would be dangerous as it has been hit with drug cartels and it is very unsafe. She does not indicate whether she experienced any dangerous situations while living in Mexico with the applicant. The record is unclear as to where in Mexico the applicant resides. The applicant's spouse wrote in August 2010 that she would have to fly to Acapulco, Guerrero and take a bus to visit the applicant in his hometown of Chichihualco, Guerrero (southern Mexico), but then writes in September 2011 that she went to Chihuahua (northern Mexico) to be with him. In addition to country conditions printouts submitted for the record in 2010, the AAO has additionally reviewed the U.S. State Department's current *Mexico Travel Warning*, dated November 20, 2012. Therein, U.S. citizens are warned that crime and violence are serious problems throughout the country and can occur

anywhere. U.S. citizens have fallen victim to transnational criminal organization activity including homicide, gun battles, kidnapping, carjacking and highway robbery, and the number of kidnappings and disappearances throughout Mexico is of particular concern. The State Department warns that U.S. citizens should defer non-essential to Chihuahua (particularly Ciudad Juarez and Chihuahua City) as well as to the northwestern and southern portions of Guerrero. It is noted, however, that after living in Mexico for nine months, the applicant's spouse wrote shortly after returning to the United States that she "prefers to be with [redacted] in Mexico."

The AAO has considered cumulatively all assertions of relocation-related hardship to the applicant's spouse including her adjustment to a country in which she most recently resided for only nine months; that she has lived nearly 20 years in the United States; her close family ties in the United States – particularly to her mother and also her father, uncles and other relatives; her community ties and service in the United States; that she earned her bachelor's degree in 2009 and secured steady employment both before and after graduation; her reliance since 2009 on government programs which would be unavailable to her in Mexico; her concerns as the mother of two very young U.S. citizen children who would have to relocate with her to Mexico; her medical/health-related conditions and stated concerns that comparable medical care, facilities, and programs would be unavailable to her in Mexico; and her stated economic, employment, educational, and safety concerns regarding Mexico. Considered in the aggregate, the AAO finds the evidence insufficient to demonstrate that the applicant's U.S. citizen spouse would suffer extreme hardship were she to relocate to Mexico.

The applicant has, therefore, failed to demonstrate that the challenges his spouse faces are unusual or beyond the common results of removal or inadmissibility to the level of extreme hardship. Accordingly, the AAO finds that the applicant has failed to demonstrate extreme hardship to a qualifying relative. The AAO notes that even had it been established that the applicant's spouse would suffer extreme hardship, the applicant's waiver would have been denied as a matter of discretion.

In weighing the positive and negative factors in the applicant's case, the record shows that he has a history of dangerous behavior involving the use of alcohol. The applicant's multiple incidents of driving while intoxicated – one during which he left the scene of a property damage accident, and other alcohol-related reckless conduct such as purchasing alcohol for minors while still on probation for DWI are troubling. Also troubling is that he continued to drive with a revoked license, knowingly disregarding the laws of the United States and the court order of a judge in Nebraska, and that from August 2002 to August 2006 in connection with the first four of his five criminal convictions, he knowingly and continuously misrepresented his identity to law enforcement. It was only in connection with his most recent arrest and conviction, for the very crime of "criminal impersonation," that his actual identity was discovered or disclosed. The applicant's criminal record spans from August 2002 to August 2008, nearly his entire adult life from age 20 to 26. He departed the United States in May 2010 at the age of 27. The record does not show whether the applicant has continued to drive under the influence of alcohol in Mexico and the AAO is unaware of whether he has been arrested or cited for additional crimes or incidents there. The applicant's known acts of driving while intoxicated in the United States and his purchase of alcohol for minors while on probation himself for DWI demonstrate a habitual pattern

of dangerous criminal conduct throughout his adulthood. The applicant has not submitted any explanation or documentation to show that this period involved unusual circumstances for him that would suggest this behavior was uncharacteristic of him. Nor has the applicant asserted or shown that he has sought or received assistance for alcohol abuse. In addition to his irresponsible alcohol-related conduct, the applicant has also shown a disregard for the laws of the United States by entering the country without inspection, concealing his true identity and impersonating someone else for pecuniary gain, working without authorization and failing to demonstrate that he has ever paid taxes on the income he earned over many years of working in the United States, and driving while knowing that his driving privilege had been revoked for DWI.

Thus, the AAO finds that at this time, as the record is currently constituted, the applicant would not merit a favorable exercise of discretion even had he established extreme hardship to a qualifying relative.

In proceedings for application for waiver of grounds of inadmissibility under the Act, the burden of establishing that the application merits approval remains entirely with the applicant. 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.