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U.S. Department of Homeland Security  
20 Mass, N.W., Rm. 3000  
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U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE:

[REDACTED]

Office: BALTIMORE, MD

Date:

**JUN 14 2007**

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, Baltimore, Maryland and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Pakistan who was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having procured admission into the United States by fraud or willful misrepresentation on January 28, 1997. The applicant is married to a U.S. citizen and is the son of a lawful permanent residents. He seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i) to remain in the United States with his family.

The district director concluded that the record did not establish that a qualifying relative would suffer extreme hardship if the applicant were removed from the United States. He denied the application accordingly. *Decision of the District Director*, dated May 10, 2004.

On appeal, counsel states that the district director in denying the Form I-601, Application for Waiver of Ground of Excludability, failed to properly review, weigh and consider the individual or aggregate hardship presented by the applicant, specifically that the district director erred in finding that the financial hardship, emotional hardship and medical hardship of the applicant's spouse, and the anti-American political climate in Pakistan did not establish extreme hardship. Counsel submits a brief. *Form I-290B*, dated May 19, 2004; *Attorney's Brief*, dated June 9, 2004.

The record indicates that on March 4, 2003, the applicant filed the Form I-485, Application to Register Permanent Resident or Adjust Status, based on the Form I-130, Petition for Alien Relative, filed by his U.S. citizen spouse, [REDACTED]. At his adjustment interview, the applicant testified under oath that he entered the United States on January 28, 1997 by presenting a fraudulent passport in the name of [REDACTED]. Accordingly, he is 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 procured admission to the United States through fraud or willful misrepresentation.

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

- (i) 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) of the Act provides that:

- (1) The Attorney General [now the Secretary 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.

Section 212(i) of the Act provides that a waiver of the bar to admission resulting from section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member. In the present case, the qualifying relatives are [REDACTED] the applicant's spouse, and his lawful resident parents, [REDACTED] and [REDACTED]. Hardship the applicant experiences as a result of separation is not considered in section 212(i) waiver proceedings, except as it would affect the applicant's spouse or parents. 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).

The concept of extreme hardship to a qualifying relative "is not . . . fixed and inflexible," and whether extreme hardship has been established is determined based on an examination of the facts of each individual case. *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565 (BIA 1999). In *Matter of Cervantes-Gonzalez*, the Board of Immigration Appeals set forth a list of non-exclusive factors relevant to determining whether an alien has established extreme hardship to a qualifying relative pursuant to section 212(i) of the Act. These factors include, with respect to the qualifying relative, the presence of family ties to U.S. citizens or lawful permanent residents in the United States, family ties outside the United States, country conditions where the qualifying relative would relocate and family ties in that country, the financial impact of departure, and significant health conditions, particularly where there is diminished availability of medical care in the country to which the qualifying relative would relocate. *Id.* at 566. The age of the qualifying relative may be an additional relevant factor. *See Matter of Pilch*, 21 I&N 627, 630 (BIA 1996). In examining whether extreme hardship has been established, the BIA has held:

Relevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists. In each case, the trier of fact 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. *Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996) (citations omitted).

U.S. court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. *See Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991). 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. *Hassan v. INS*, *supra*, held further that the 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.

On appeal, the applicant seeks a waiver based only on the extreme hardship that his removal would cause his spouse, [REDACTED]. The AAO notes, however, that in an undated statement submitted in response to the district director's notice of intent to deny the Form I-601, [REDACTED] states that the applicant's lawful permanent resident parents would also suffer if he is removed from the United States. However, a review of

the record finds that the applicant has submitted no evidence to establish how his removal from the United States would affect these other qualifying relatives. Moreover, although [REDACTED] states that the applicant's parents reside in the United States, the Form G-325A, Biographic Information sheet, submitted in support of the Form I-485 filed by the applicant on March 4, 2003 indicates that his parents reside in Pakistan. Accordingly, the AAO will limit its consideration of extreme hardship to [REDACTED]. It notes that extreme hardship to [REDACTED] must be established if she resides in Pakistan or if she remains in the United States, as she is not required to reside outside of the United States based on the denial of the applicant's waiver request. The AAO now turns to a consideration of the relevant factors in this case.

The record includes the following evidence to establish the applicant's claim that [REDACTED] would suffer extreme hardship if she were to be removed from the United States: counsel's brief, dated June 9, 2004 and counsel's response to the district director's notice of intent to deny the Form I-601, dated January 6, 2004. Materials submitted with counsel's response to the director's notice include the undated statement from [REDACTED] noted above; a January 7, 2004 statement from [REDACTED] Family Care in Baltimore, Maryland indicating that [REDACTED] suffers from arthritis that has become severe; a copy of [REDACTED]'s health plan; informational material on osteoarthritis; medical information regarding [REDACTED]'s mother, billing statements related to utilities, cable, telephone, credit cards and a home equity loan; statements related to auto insurance and bank accounts; and a U.S. Department of State travel warning for individuals planning to visit Pakistan.

The first part of the extreme hardship analysis requires the applicant to establish extreme hardship to his spouse in the event that she relocates to Pakistan. In her statement, [REDACTED] states that she fears for her safety were she to move to Pakistan with the applicant. She notes that her husband comes from Attock, a few miles outside the North West Frontier province and that this area is outside the control of the Government of Pakistan. [REDACTED] also indicates that she does not speak or understand Urdu, that she has medical problems and that she is not sure what type of employment she could obtain in Pakistan with her language and medical disabilities. [REDACTED] also states that she wishes to remain in the United States where she can be in close proximity to her parents in Mexico.

On appeal, counsel contends that [REDACTED] has no relatives in, nor any cultural, emotional or religious ties to Pakistan. She also notes the dangerous country conditions in Pakistan and the prohibition placed on travel to the North West Frontier province for individuals who are not citizens of Pakistan, as stated in the Department of State traveling warning for Pakistan. Counsel also points to [REDACTED]'s inability to speak Urdu, her likely inability to obtain employment and the unavailability of suitable medical care in Pakistan to treat [REDACTED]'s rheumatoid arthritis and osteoarthritis, a degenerative bone condition. As proof of [REDACTED]'s medical condition, counsel references a January 7, 2004 statement from [REDACTED] who indicates that he has cared for [REDACTED] since 1997 and that she is being evaluated for arthritis, "which has become progressive and severe since 2003."

Having considered the evidence of record as it relates to the impact of relocation to Pakistan on [REDACTED] the AAO finds that the applicant has demonstrated that [REDACTED] would experience extreme hardship if she were to move to Pakistan with him. When considered in the aggregate, country conditions in Pakistan, [REDACTED]'s health, her inability to speak Urdu and her lack of any family, cultural or religious ties to Pakistan establish that the effect of relocation would subject [REDACTED] to difficulties and dislocations beyond what is

normally experienced by individuals who decide to relocate outside the United States with their removed spouses.

The second part of the analysis requires the applicant to establish extreme hardship in the event that [REDACTED] remains in the United States following his removal.

In her statement, [REDACTED] asserts that she would suffer both emotionally and financially should the applicant's waiver request be denied. She contends that if the applicant is not allowed to remain in the United States, the loss of his income will result in the loss of the home she purchased in 1999 and undermine her ability to care for her parents in Mexico, which depends, in part, on the free or reduced-cost travel available to [REDACTED] as a result of the applicant's airline employment. [REDACTED] also contends that the stress of having to bear all her responsibilities will negatively affect her already comprised health and that she may have to give up her health insurance coverage to meet her living expenses. [REDACTED] further states that no marriage can withstand a ten year separation<sup>1</sup> and that her marriage to the applicant "might as well be dissolved today."

Counsel reiterates these same claims. He states that the geographic remoteness of Pakistan and the cost of the airfare between the United States and Pakistan would make it impractical for the applicant and [REDACTED] to have a meaningful marital relationship or to have children. Counsel also contends that without the travel benefits from the applicant's employment, [REDACTED] would not be in a position to visit her parents as often as she does now. Without the applicant's income, counsel asserts, [REDACTED] would not be able to meet her basic living expenses or afford the health insurance she needs to deal with her arthritis.

The AAO has reviewed the evidence submitted to establish that [REDACTED] would suffer extreme financial hardship if the applicant were to be removed from the United States. Despite counsel's claims to the contrary, the evidence is not sufficient to meet the applicant's burden of proof in this proceeding.

To establish that the applicant's income is essential to [REDACTED], counsel has submitted documentation of their monthly expenses, which total \$2,500. Noting that one of [REDACTED]'s two paychecks each month goes to pay the mortgage, counsel asserts that more than half of the second is required to pay her health insurance premium and that [REDACTED] needs the applicant's additional income to ensure that she is able to receive the health care required by her medical conditions, rheumatoid arthritis and osteoarthritis. As evidence of the financial burden imposed by [REDACTED]'s health insurance payments, the record contains documentation that establishes she currently pays \$141 (Aetna HMO), \$35.50 (MetLife Dental), and \$1.32 (long-term disability) on a bi-weekly basis, a total of approximately \$355 each month. The AAO notes, however, that [REDACTED] pays for a health plan that also provides coverage to the applicant and a nephew who lives with them. Accordingly, the AAO does not find it to be an accurate reflection of [REDACTED]'s monthly health care costs following the applicant's removal. The AAO also notes that the nephew living with [REDACTED] and the

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<sup>1</sup> The AAO notes that the bar to admission in section 212(a)(6)(C)(i) is permanent. While other grounds of admissibility are time-limited, e.g., sections 212(a)(9)(B)(i)(I) and (II) limit the period of inadmissibility based on unlawful presence in the United States to three and ten years, respectively, there is no such limit placed on inadmissibility for using a fraudulent document to enter the United States. The applicant in the present case is permanently barred from the United States absent receiving a waiver under section 212(i) of the Act.

applicant is now almost 26 years old and that the record does not demonstrate that he has a medical condition or other special circumstances that would require [REDACTED] to continue providing him with health coverage. If [REDACTED]'s health care plan did not include the applicant and her nephew, the documentation submitted by the applicant indicates that her monthly health insurance costs would total \$99.64, not the significantly more burdensome payment of \$355 claimed.

The AAO also notes [REDACTED]'s claim that she has been diagnosed with rheumatoid arthritis and early osteoarthritis, a degenerative bone condition, and that she will have to stop working in the future because she will be unable to use her fingers when her condition progresses. Accordingly, the AAO has considered whether the record demonstrates that [REDACTED]'s medical condition will at some point in the foreseeable future preclude her from continuing with the employment that provides her with both income and health coverage.

As previously noted, the record includes a statement from [REDACTED] that reports that [REDACTED] has arthritis and that it has become severe since 2003. [REDACTED] also notes that [REDACTED] has been referred to a specialist in rheumatology. He does not, however, state that she has been diagnosed with rheumatoid arthritis. Neither does he indicate the type, extent or frequency of the arthritis treatment [REDACTED] requires, the effect of her arthritis on her ability to perform her daily activities, including her work as a senior bank teller, or her prognosis. Therefore, the record does not establish that [REDACTED]'s medical condition would result in the loss of her employment and the health care coverage it provides. Going on record without supporting documentary evidence is not sufficient to meet the burden of proof in this proceeding. Therefore, *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 AAO acknowledges that the applicant's and [REDACTED]'s monthly living expenses, as documented in the record, exceed [REDACTED]'s monthly income and that her economic circumstances would change significantly if the applicant is removed from the United States. However, demonstrated financial difficulties alone are generally insufficient to establish extreme hardship. *See INS v. Jong Ha Wang*, 450 U.S. 139 (1981) (upholding the Board of Immigration Appeals finding that economic detriment alone is insufficient to establish extreme hardship). Moreover, the economic difficulties that would face [REDACTED] if the applicant's waiver request is denied are those typically faced by the spouses of individuals removed from the United States. For this reason as well, they are insufficient to satisfy the requirements for extreme hardship. *See Perez v. INS, supra*. The AAO also notes that the record does not establish, nor does the applicant claim that he would be unable to obtain employment upon return to Pakistan and, therefore, to assist [REDACTED] in paying their monthly bills from outside the United States. As [REDACTED]'s nephew resides with her and is now an adult, he may also be able to assist her financially if the applicant is removed. Accordingly, the record does not support a finding of financial loss that would result in an extreme hardship to [REDACTED] if she had to support herself without additional income from the applicant, even when combined with the emotional hardship described below.

[REDACTED] points to the effect that the applicant's removal and subsequent loss of employment would have on her ability to care for and support her parents living in Mexico, and on her marriage. [REDACTED] notes that the applicant's airline employment, which provides her with free or reduced-cost air travel, has allowed her to provide financial and emotional support to her elderly parents. She indicates that her mother's diabetic

condition has resulted in the amputation of one leg and that her condition continues to worsen. [REDACTED] states that if she lost her ability to alleviate her parents' difficult situation, it would cause her extreme emotional hardship. [REDACTED] also states that her marriage to the applicant would not withstand a lengthy separation and that their lives would take a different direction from what they wish to do as a couple. She contends that denying the applicant a waiver would result in harsh consequences not intended by the U.S. Congress.

While the AAO acknowledges [REDACTED]'s concerns for her parents and her satisfaction in being able to provide them with assistance, the record does not demonstrate that she would suffer extreme emotional hardship if she could no longer be as involved in her parents' lives. The record contains no psychological or medical report from a health care professional to support [REDACTED]'s claim in this regard. It offers only [REDACTED]'s estimation of her emotional distress, which, as previously noted, is insufficient proof for the purposes of this proceeding. *See Matter of Soffici, supra*. The separation of [REDACTED] from the applicant, while painful for her, is, again, a typical result of the removal of a spouse from the United States and does not establish extreme emotional hardship. As just noted, the record contains no evidence in the form of a medical or psychological evaluation to demonstrate that the denial of the applicant's waiver request would have a disproportionate emotional impact on [REDACTED]. Emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship. *Matter of Pilch, supra*

When reviewed in its entirety and in light of the *Cervantes-Gonzalez* factors cited above, the record does not support a finding that [REDACTED] would face extreme hardship if the applicant were removed and she remained in the United States. Rather, the record demonstrates that she would experience the distress and difficulties normally associated with the removal of a spouse. In nearly every qualifying relationship, whether between husband and wife or parent and child, there is a deep level of affection and emotional and social interdependence. While, the prospect of separation or relocation nearly always results in considerable hardship to the individuals and families involved, the Congress, in specifically limiting the availability of a waiver of inadmissibility to cases of "extreme hardship," did not intend that a waiver be granted in every case where a qualifying relationship and, thus, familial and emotional bonds exist. The point made in this and prior AAO decisions on this matter is that the current state of the law, viewed from a legislative, administrative, or judicial point of view, requires that the hardship, which meets the standard in section 212(i) of the Act, be above and beyond the normal, expected hardship involved in such cases.

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's spouse caused by the applicant's removal from 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(i) 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.