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U.S. Citizenship
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Services

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FILE: [REDACTED] Office: ATHENS, GREECE

Date: **JUN 25 2007**

IN RE: [REDACTED]

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

ON BEHALF OF APPLICANT:

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the U. S. Citizenship and Immigration Services (USCIS) Officer in Charge (OIC), Athens, Greece. 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 Jordan. She was correctly found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for one year or more. The applicant does not contest this finding. She seeks a waiver of inadmissibility pursuant to section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v), in order to return to the United States to join her naturalized U.S. citizen husband, [REDACTED]

The record reflects that the applicant was admitted into the United States on a B-2 visitor visa on September 18, 1994. She overstayed her visa and subsequently departed and reentered Jordan on August 7, 2001. The applicant and [REDACTED] were married in Jordan on August 5, 1994. The applicant's daughter [REDACTED] was born in the United States on June 20, 1996 and the applicant's son was born in Jordan on April 1, 2003. Mr. [REDACTED] a Palestinian who became a naturalized U.S. citizen on April 6, 2001, filed a Form I-130, Petition for Alien Relative, on the applicant's behalf in 2001. The Form I-130 petition was approved by USCIS, but the applicant was denied a visa on February 3, 2005 by the U.S. Department of State Consular Section at the American Embassy in Amman, Jordan because the applicant had been unlawfully present in the United States for more than one year. The Form I-601, Application for Waiver of Grounds of Inadmissibility, was filed in January 2005 and subsequently forwarded to the USCIS OIC in Athens, Greece.

The OIC concluded that the applicant had failed to establish that her bar to admission would impose extreme hardship on a qualifying relative, her U.S. citizen spouse, and denied the waiver application accordingly. *Decision of OIC*, dated May 26, 2006.

On appeal, [REDACTED] submits an affidavit in which he states that he has not returned to Jordan to be with his wife and children because "we could not be able to survive off my income in Jordan." He asserts that he would have no immigration status in Jordan other than that of a visitor and would be unable to find employment there to support his family. [REDACTED] indicates that he suffers depression and "stress-related eczema" as a consequence of his continuing separation from his family. He states that the applicant now also suffers from clinical depression and that this only increases his emotional strain.

Counsel submits a letter from [REDACTED] of Houston, Texas in which [REDACTED] indicates that he saw the applicant in his office on August 10, 2006. [REDACTED] continues:

[REDACTED] was very anxious, unable to eat or sleep because of depression. He is depressed because his family is overseas and he is here all alone. He has lost appetite and some weight. Due to nervousness he has developed eczema all over his body.

He was started with Desyryl and was advised to return for a follow up visit.

Counsel also submits country conditions information for Jordan in support of the assertion that it would be almost impossible for [REDACTED] to find a job there to support his family. The record also includes Mr.

tax records for 2000 through 2003, showing earnings of approximately \$34,920, \$17,600, \$5,350 and \$22,544 respectively. The entire record was reviewed and considered in rendering this decision.

Section 212(a)(9)(B) of the Act provides, in pertinent part:

(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.

....

(v) Waiver. - The Attorney General [now the Secretary of Homeland Security (Secretary)] has sole discretion to waive clause (i) in the case of an immigrant who is the spouse or 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 such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien.

A waiver of inadmissibility under section 212(a)(9)(B)(v) is dependent upon a showing that the bar to admission imposes an extreme hardship on a qualifying relative, *i.e.*, the U.S. citizen or lawfully resident spouse or parent of the applicant. Hardship to the applicant or to her children is not relevant under the statute and will be considered only insofar as it results in hardship to a qualifying relative in the application. The applicant's U.S. citizen spouse is the only qualifying relative. If extreme hardship to a qualifying relative is established, the Secretary then assesses whether an exercise of discretion is warranted. Section 212(a)(9)(B)(v) of the Act; *see also Matter of Mendez-Morales*, 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 applicant 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.

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. courts have stated, “the most important single hardship factor may be the separation of the alien from family living in the United States,” and also, “[w]hen the BIA fails to give considerable, if not predominant, weight to the hardship that will result from family separation, it has abused its discretion.” *Salcido-Salcido v. INS*, 138 F.3d 1292, 1293 (9th Cir. 1998) (citations omitted); *Cerrillo-Perez v. INS*, 809 F.2d 1419, 1424 (9th Cir. 1987) (remanding to BIA) (“We have stated in a series of cases that the hardship to the alien resulting from his separation from family members may, in itself, constitute extreme hardship.”) (citations omitted). Separation of family will therefore be given appropriate weight in the assessment of hardship factors in the present case.

An analysis under *Matter of Cervantes-Gonzalez* is appropriate. The AAO notes that extreme hardship to a qualifying relative must be established in the event that he or she accompanies the applicant or in the event that he or she remains in the United States, as a qualifying relative is not required to reside outside of the United States based on the denial of the applicant’s waiver request.

The record, reviewed in its entirety and in light of the *Cervantes-Gonzalez* factors, cited above, does not support a finding that [REDACTED] faces extreme hardship if his wife is refused admission. The AAO recognizes that [REDACTED] suffers emotionally as a result of separation from the applicant. However, it is also noted that the evidence of the applicant’s medical condition is insufficiently documented. [REDACTED] indicates in his letter that he saw the applicant on only one occasion, suggesting that the information in the letter concerning the applicant’s inability to eat and sleep and his loss of appetite and weight was based on [REDACTED]’s own representations.

[REDACTED]’s situation is not atypical of individuals separated as a result of removal or inadmissibility and does not rise to the level of extreme hardship based on the record. U.S. court decisions have repeatedly held that the common results of removal or inadmissibility are insufficient to prove extreme hardship. *See Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991). 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.

Likewise, there is insufficient evidence in the record corroborating [REDACTED]’s assertions that he would be unable to find employment in Jordan to support his family should he relocate there. The applicant has submitted a copy of a Central Intelligence Agency’s report on Jordan which states that “[d]ebt, poverty and unemployment are fundamental problems” in the country, and that the unofficial employment rate for 2004 was approximately 30%. Central Intelligence Agency, *The World Factbook: Jordan*, <http://www.cia.gov/cia/publications/factbook/geos/jo.html>, (last updated June 13, 2006). The applicant has also submitted a 2005 report from the Global Policy Network documenting Jordan’s unemployment problem. University of Jordan Center for Strategic Studies – Economic Studies Unit, *Labor in Jordan* (Global Policy Network 2005). However, no specific evidence has been submitted showing that [REDACTED] himself, a naturalized U.S. citizen, would be unable to obtain employment in Jordan. Although the statements of Mr.

and others are relevant and are taken into consideration, little weight can be afforded them in the absence of specific supporting evidence. *Matter of Kwan*, 14 I & N Dec. 175 (BIA 1972) (“Information in an affidavit should not be disregarded simply because it appears to be hearsay; in administrative proceedings, that fact merely affects the weight to be afforded it.”). Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *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)).

In this case, the record does not contain sufficient evidence to show that the hardships faced by the qualifying relative, considered in the aggregate, rise beyond the common results of removal or inadmissibility to the level of extreme hardship. The AAO therefore finds that the applicant failed to establish extreme hardship to his U.S. citizen spouse as required under section 212(a)(9)(B)(v) of the Act. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether she merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(9)(B)(v) of the Act, the burden of proving eligibility rests 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.