

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**



**U.S. Citizenship  
and Immigration  
Services**

**PUBLIC COPY**

44



FILE:



Office: LIMA, PERU

Date: **AUG 30 2007**

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:

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 Officer-in-Charge (OIC), Lima, Peru, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant, [REDACTED], is a native and citizen of Peru who was found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act (the 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. The applicant is married to [REDACTED] who is a naturalized citizen. He sought a waiver of inadmissibility pursuant to section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v), which the OIC denied, finding that the applicant failed to establish hardship to a qualifying relative. *Decision of the OIC, dated November 21, 2005.* The applicant submitted a timely appeal.

The AAO will first address the finding of inadmissibility pursuant to section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II).

Section 212(a)(9)(B)(i)(II) of the Act provides that any alien (other than an alien lawfully admitted for permanent residence) who has been unlawfully present in the United States for one year or more, and again seeks admission within 10 years of the date of such alien's departure or removal, is inadmissible.

Unlawful presence accrues when an alien is present in the United States after the expiration of the period of stay authorized by the Attorney General or is present in the United States without being admitted or paroled. Section 212(a)(9)(B)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(B)(ii). The periods of unlawful presence under sections 212(a)(9)(B)(i)(I) and (II) are not counted in the aggregate.<sup>1</sup> For purposes of section 212(a)(9)(B) of the Act, time in unlawful presence begins to accrue on April 1, 1997.<sup>2</sup>

The three- and ten-year bars of sections 212(a)(9)(B)(i)(I) and (II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(I) and (II), are triggered by a departure from the United States following accrual of the specified period of unlawful presence. If someone accrues the requisite period of unlawful presence but does not subsequently depart the United States, then sections 212(a)(9)(B)(i)(I) and (II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(I) and (II), would not apply. *See* DOS Cable, note 1. *See also Matter of Rodarte*, 23 I&N Dec. 905 (BIA 2006)(departure triggers bar because purpose of bar is to punish recidivists). With regard to an adjustment applicant who had 180 days of unauthorized stay in the United States before filing an adjustment of status application, his or her return on an advance parole will trigger the three- and ten-year bar. *See* Memo, Virtue, Acting Exec. Comm., INS, HQ IRT 50/5.12, 96 Act. 068 (Nov. 26, 1997). Certain periods of stay authorized by the Attorney General are not counted as unlawful presence. *See* Memorandum, Pearson, Executive Assoc. Comm. INS, Period of stay authorized by the Attorney General after 120-day tolling period for purposes of section 212(a)(9)(B) of the Immigration and Nationality Act (the Act), March 3, 2000 (HQADN70/21.1.24-P AD 00-07) [hereafter *Pearson Memo, Period of Authorized Stay*]. *See also* Memorandum, Williams, Exec. Assoc. Comm., INS, Unlawful Presence, June 12, 2002 (HQADN 70/21.1.24-P) [hereafter *Williams Memo, Unlawful Presence*]; and *Virtue Memo Unlawful Presence*.

---

<sup>1</sup> Memorandum, Virtue, Acting Assoc. Comm. INS, Grounds of Inadmissibility, Unlawful Presence, June 17, 1997 INS Memo on Grounds of Inadmissibility, Unlawful Presence (96Act.043); and Cable, DOS, No. 98-State-060539 (April 4, 1998) [hereinafter *Virtue Memo Unlawful Presence*].

<sup>2</sup> *See* DOS Cable, note 1; and IIRIRA Wire #26, HQIRT 50/5.12.

The record reflects the following [REDACTED] entered the United States on a tourist visa, but failed to depart in accordance with the conditions of his admission. [REDACTED] requested asylum in the United States on October 23, 1992, which was denied by the legacy Immigration and Naturalization Service (INS) on March 15, 1993. On April 2, 1993, the INS served an Order to Show Cause on [REDACTED]. On July 3, 1996, the INS amended the Order to Show Cause, charging [REDACTED] with being deportable for overstaying his tourist visa. [REDACTED] conceded deportability, applying for relief from deportation through political asylum and withholding of deportation. The Immigration Judge denied the applications on July 15, 1996. On July 31, 1996, an alien employment certification was approved on [REDACTED]'s behalf. [REDACTED] filed an appeal of the Immigration Judge's decision to the Board of Immigration Appeals (BIA). On July 23, 1998, the BIA found the appeal was untimely filed, and upheld the Immigration Judge's decision. In April 1999 and August 2001, the BIA denied [REDACTED]'s motions to reconsider. [REDACTED] filed a motion to reopen his deportation proceedings. On October 25, 2001, the BIA stated that it did not have jurisdiction over [REDACTED] claim, and that jurisdiction to reopen lay with the Immigration Judge. On September 10, 2001, an employment-based visa petition (Form I-140) was filed on behalf of [REDACTED]. At this time, the INS moved to take [REDACTED] into custody. On September 13, 2001, [REDACTED] filed an application for stay of deportation, which the INS granted until September 21, 2002, or whenever the BIA rendered a final decision, whichever came first. On April 25, 2002, [REDACTED] requested that the INS join in a motion to reopen before the Immigration Judge, which the INS refused to join in on the grounds that [REDACTED]'s employment-based visa petition had not been approved; and [REDACTED] was ineligible to apply for adjustment of status. On August 29, 2002, the INS approved the employment-based visa petition. [REDACTED] filed a second application for stay of deportation, which the INS denied by letter on October 15, 2002. In the letter, the INS characterized [REDACTED]'s stay request as based on the pending approval of his Form I-140 petition, and erroneously stated that the petition had been denied. The letter further stated that [REDACTED] action did not have substantial merit because his immigration record showed "a consistent pattern of deception and misrepresentation that precludes the granting of any discretionary relief." The INS issued a notification that [REDACTED] would be deported on November 13, 2002. [REDACTED] then filed the Petition for Writ of Habeas Corpus. On November 12, 2002, United States District Court Judge [REDACTED] granted [REDACTED] a stay of deportation pending the ruling of the Petition for Writ of Habeas Corpus. On December 3, 2003, the Petition for Writ of Habeas Corpus was denied by the United States District Court Judge, and dismissed for lack of jurisdiction. [REDACTED] also filed a motion to reopen sua sponte in the immigration court.

For purposes of calculating unlawful presence under section 212(a)(9)(B)(ii) of the Act, a stay of deportation by the U.S. District Court Judge is not a period of stay authorized by the Attorney General. The applicant began to accrue unlawful presence from November 13, 2002 until his departure on May 2, 2005.<sup>3</sup> The applicant therefore accumulated more than five years of unlawful presence when he departed from the country, triggering the ten-year-bar. The OIC was therefore correct in finding the applicant inadmissible under section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1101(a)(9)(B)(i)(II).

The AAO will now address the finding that a waiver of inadmissibility is not warranted.

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

---

<sup>3</sup> See *Pearson Memo, Period of Authorized Stay; Williams Memo, Unlawful Presence; and Virtue Memo Unlawful Presence.*

- (v) Waiver. – The Attorney General [now Secretary, 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 Attorney General [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 is not a consideration under the statute; and unlike section 212(h) of the Act where a child is included as a qualifying relative, they are not included under section 212(a)(9)(B) of the Act. Thus, hardship to the applicant and his children will be considered only to the extent that it results in hardship to a qualifying relative. The qualifying relative in this case is the applicant’s wife. If extreme hardship to the qualifying relative is established, the Secretary then assesses whether an exercise of discretion is warranted. *See Matter of Mendez-Morales*, 21 I&N Dec. 296 (BIA 1996).

The record contains a marriage certificate; a divorce decree; letters from the applicant, his wife, and his in-laws; income records; and other documents.

On appeal, counsel states that the applicant’s waiver application should have been granted. He states that like the respondents in *Matter of O-J-O*, 21 I&N Dec. 381 (BIA 1996) and *Matter of Recinas*, 23 I&N Dec. 467 (BIA 2002), where extreme hardship was found, [REDACTED] attended school in the United States, assimilated into the American culture, and has a lucrative career and family ties. Counsel states that [REDACTED] is not returning to Chile, her native country, but is joining her husband in Peru, where she has no family ties. He claims that their economic detriment is greater than in *Matter of O-J-O* because [REDACTED] will not have a dental practice in Peru like he had in California. Furthermore, counsel states that *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560 (BIA 1999), indicates that whenever a lucrative career is relinquished financial hardship exists. Before moving to Peru, counsel states [REDACTED] sold his dental practice, and that he could start another practice when he returns to the United States. Counsel states that [REDACTED] could work as a dentist in Peru, but earning far less than in the United States. He states that the importance of family ties in assessing hardship is shown in *U.S. v. Arrieta*, 224 F.3d 1076, 1082 (9<sup>th</sup> Cir. 2000); *Gutierrez-Centeno v. INS*, 99 F.3d 1529, 1533 (9<sup>th</sup> Cir. 1996); *Contreras-Buenfil v. INS*, 712 F.2d 401 (9<sup>th</sup> Cir. 1983); *Mejia-Carrillo v. INS*, 656 F.2d 520 (9<sup>th</sup> Cir. 1981); and *Gutierrez-Centeno v. INS*, 99 F.3d 1529 (9<sup>th</sup> Cir. 1996). Counsel states that [REDACTED]’s family ties, her mother, stepfather, brother, and extended family, live in the United States. He asserts that [REDACTED] is like the respondent in *Arrieta*, as she indicated the loss she would incur if her husband is denied admission. Counsel states that [REDACTED] lived with her mother and stepfather until she married [REDACTED] and would experience extreme hardship if separated from them as they have health problems. Counsel states that [REDACTED] will need her mother when she has children. He indicates that [REDACTED] and her stepson will lose their close relationship if her husband is denied admission and she remains in Peru. Counsel states that [REDACTED]’s hardship is elevated by Peru’s climate, human rights abuses, violence and discrimination towards women, and high unemployment. He states that [REDACTED] received an award for community service, and that [REDACTED]’s community bonds include his son’s soccer and baseball teams. Counsel states that *Matter of W*, 9 I&N Dec. 1 (BIA 1960), is not relevant since the [REDACTED] did not marry after a “brief acquaintance.” Counsel asserts that Ms. Deza did not know that her husband might be required to live in Peru for 10 years.

The letters in the record from [REDACTED] describe her close relationship with her husband and parents.

The record reflects that the [REDACTED] own three houses in California, and have proceeds of \$500,000 from the sale of a dental practice and \$163,000 in investment accounts.

The letter in the record from [REDACTED] (the mother of [REDACTED]) describes her daughter's life in Peru and the need for her daughter to be in the United States. The letter from the stepfather of [REDACTED] describes [REDACTED]'s life in Peru, his relationship with her, and his health problems.

The letter from [REDACTED] indicates that [REDACTED] had surgical intervention for severe abdominal pain, resulting from a tear in the straight muscle of the interior part of the abdomen and a hernia. It stated that "[s]he received plastia of wall and recession of previous hypertrophy scar without complications, also plastia of straight abdominal muscle."

The letter, dated December 13, 2005, from Healthcare Imaging Center conveys that [REDACTED] had a "CT of chest w/contrast examination."

In rendering this decision, the AAO has carefully considered all of the documents contained in the record.

"Extreme hardship" is not a definable term of "fixed and inflexible meaning"; establishing extreme hardship is "dependent upon the facts and circumstances of each case." *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565 (BIA 1999). The BIA in *Matter of Cervantes-Gonzalez* lists the factors it considers relevant in determining whether an applicant has established extreme hardship pursuant to section 212(i) of the Act. 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.* at 565-566. The BIA indicated that these factors relate to the applicant's "qualifying relative." *Id.* at 565-566.

In *Matter of O-J-O*, 21 I&N Dec. 381, 383 (BIA 1996), the BIA stated that the factors to consider in determining whether extreme hardship exists "provide a framework for analysis," and that the "[r]elevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists." It further stated that "the trier of fact must consider the entire range of factors concerning hardship in their totality" and then "determine whether the combination of hardships takes the case beyond those hardships ordinarily associated with deportation." (citing *Matter of Ige*, 20 I&N Dec. 880, 882 (BIA 1994).

Extreme hardship to the applicant's wife must be established in the event that she joins the applicant; and in the alternative, that she remains in the United States. 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 fails to establish that the applicant's wife would experience extreme hardship if she remained in the United States without her husband.

Counsel makes no claim of economic hardship to [REDACTED] if she remains in the United States without her husband. In any case, courts in the United States have universally held that economic detriment alone is insufficient to establish extreme hardship. *See, e.g., INS v. Jong Ha Wang*, 450 U.S. 139, 144 (1981) (upholding BIA finding that economic loss alone does not establish extreme hardship) and *Mejia-Carrillo v. United States INS*, 656 F.2d 520, 522 (9<sup>th</sup> Cir. 1981) (economic loss alone does not establish extreme hardship, but it is still a fact to consider).

U.S. courts have stated that “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 (9<sup>th</sup> Cir. 1998) (citations omitted); *Cerrillo-Perez v. INS*, 809 F.2d 1419, 1424 (9<sup>th</sup> 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).

However, U.S. courts have held that the fact that an alien has a U.S. citizen child is not sufficient, in itself, to establish extreme hardship. As stated in *Matter of Correa*, 19 I&N Dec. 130, 134 (BIA 1984), “it is well settled that the birth of children in the United States by itself does not constitute a prima facie case of extreme hardship.” In *Marquez-Medina v. INS*, 765 F.2d 673 (7<sup>th</sup> Cir. 1985), the Seventh Circuit stated that an illegal alien cannot gain a favored status merely by the birth of a citizen child. The Ninth Circuit in *Lee v. INS*, 550 F.2d 554 (9<sup>th</sup> Cir. 1977), found that an alien illegally present in the United States cannot gain a favored status merely by the birth of his citizen child. In *Banks v. INS*, 594 F.2d 760, 762 (9<sup>th</sup> Cir. 1979), the Ninth Circuit found that an alien who is illegally within this country cannot gain a favored status on the coattails of his (or her) child who happens to have been born in this country. Thus, the fact that [REDACTED] has a U.S. citizen son is not sufficient, in itself, to establish extreme hardship.

Moreover, in *Hassan v. INS*, 927 F.2d 465, 468 (9<sup>th</sup> Cir. 1991), the Ninth Circuit upheld the finding that deporting the applicant and separating him from his wife and child was not conclusive of extreme hardship as it “was not of such a nature which is unusual or beyond that which would normally be expected from the respondent's bar to admission.” (citing *Patel v. INS*, 638 F.2d 1199, 1206 (9<sup>th</sup> Cir. 1980) (severance of ties does not constitute extreme hardship). In *Shoostary v. INS*, 39 F.3d 1049 (9<sup>th</sup> Cir. 1994), the court upheld the finding of no extreme hardship if Shoostary's lawful permanent resident wife and two U.S. citizen children are separated from him. As stated in *Perez v. INS*, 96 F.3d 390 (9<sup>th</sup> Cir. 1996), “[e]xtreme hardship” is hardship that is “unusual or beyond that which would normally be expected” upon deportation and “[t]he common results of deportation or exclusion are insufficient to prove extreme hardship.” (citing *Hassan v. INS*, 927 F.2d 465, 468 (9<sup>th</sup> Cir. 1991)). In *Sullivan v. INS*, 772 F.2d 609, 611 (9<sup>th</sup> Cir. 1985), the Ninth Circuit stated that deportation is not without personal distress and emotional hurt; and that courts have upheld orders of the BIA that resulted in the separation of aliens from members of their families.

The record reflects that [REDACTED] is concerned about separation from her husband. The AAO is mindful of and sympathetic to the emotional hardship that is undoubtedly endured as a result of separation from a loved one. After a careful and thoughtful consideration of the record, however, the AAO finds that the situation of [REDACTED], if she remains in the United States, is typical to individuals separated as a result of deportation or exclusion and does not rise to the level of extreme hardship as defined by the Act. The record before the AAO is insufficient to show that the emotional hardship, which certainly will be endured by the applicant's wife, is unusual or beyond that which is normally to be expected upon deportation or exclusion. *See Hassan, Shoostary, Perez, Sullivan, supra*.

Counsel claims that [REDACTED] was not aware that her husband might be forced to return to Peru for ten years on account of the approval of the Immigrant Petition for Alien worker on [REDACTED]'s behalf, his repeated stays of deportation, and the belief that the "deportation case in Miami would be reopened as a compromise to the Writ of Habeas Corpus filed in the Central District of California and the Ninth Circuit Court of Appeals."

The AAO finds counsel's claim unpersuasive when considered in the context of the evidence in the record, which reveals that in 1996, the Immigration Judge denied [REDACTED] voluntary departure because he had given false testimony and altered documentary evidence. It shows that in October 2002, the INS' letter stated that [REDACTED] immigration record showed "a consistent pattern of deception and misrepresentation that precludes the granting of any discretionary relief." It conveys that on December 3, 2003, the Petition for Writ of Habeas Corpus was denied by the United States District Court Judge, and dismissed for lack of jurisdiction. As the record reflects that the [REDACTED] lived together since March 2001, marrying on January 15, 2004, [REDACTED] would have been aware of [REDACTED] deportation order, the October 2002 letter from the INS, and the denial of the Petition for Writ of Habeas Corpus. Thus, the weight of the evidence shows that [REDACTED] married her husband knowing that he was in deportation proceedings.

It is relevant for the AAO to consider whether an alien married his or her spouse after removal proceedings began. In *Matter of Cervantes-Gonzalez*, at 567, the respondent's wife knew that her husband was in deportation proceedings at the time they were married. The BIA stated that this factor "goes to the respondent's wife's expectations at the time they were wed" and undermines the argument that the respondent's wife will suffer extreme hardship if he is deported. The BIA indicates that the respondent's wife was made aware that she may have to face the decision of parting from her husband or following him to his home country in the event he was ordered deported, which would result in separation from her family in California.

Here, the record suggests that [REDACTED] was aware at the time she wed that the applicant had been ordered deported from the United States and knew she might be faced with the decision of parting from her husband or following him to Peru in the event that he was deported. [REDACTED]'s claim, that she would suffer extreme hardship if her husband's waiver is denied because she would have to choose between living with her husband in Peru or her family in California, is therefore diminished. See *Matter of Cervantes-Gonzalez*, *supra*.

The record is insufficient to establish that [REDACTED] would endure extreme hardship if she joined her husband in Peru.

The conditions in Peru, the country where [REDACTED] and would live if she joins her husband, are a relevant hardship consideration. While political and economic conditions in an alien's homeland are relevant, they do not justify a grant of relief unless other factors such as advanced age or severe illness combine with economic detriment to make deportation extremely hard on the alien or his qualifying relatives. *Matter of Ige*, 20 I&N Dec. 880 (BIA 1994)(citations omitted).

Counsel's claim, that the applicant and his wife will experience extreme economic hardship in Peru because they will not be able to find comparable work as a dentist and as a real estate agent or a dental technician, the positions they held in the United States, is not supported by various U.S. court and BIA decisions that have shown that the difficulties the [REDACTED] may experience in obtaining employment in Peru and the general

economic conditions in that country are insufficient to establish extreme hardship. See, e.g., *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996) (difficulty in finding employment and inability to find employment in one trade or profession, although a relevant hardship factor, is not extreme hardship); *Santana-Figueroa v. INS*, 644 F.2d 1354, 1356 (9th Cir. 1981) (“difficulty in finding employment or inability to find employment in one’s trade or profession is mere detriment”); and *Matter of Kim*, 15 I&N Dec. 88, 89 (BIA 1974) (economic opportunities in a foreign country that may be somewhat less than they are in the United States is not, by itself, sufficient to establish “extreme hardship”).

Counsel’s reliance on *Babai v. INS*, 985 F.2d 253 (6<sup>th</sup> Cir. 1993) and *Blanco v. INS*, 68 F.3d. 642 (2<sup>nd</sup> Cir. 1995), to establish extreme hardship to [REDACTED] if she lived in Peru is not persuasive. The court in *Babai* found the BIA failed to consider relevant factors [REDACTED]’s testimony concerning his fear of religious persecution, threats from his former employers, the respondent’s wife inability to find a position in Iran because of the new philosophy of women not working) in the aggregate in determining whether ‘extreme hardship’ exists.

The facts in *Babai* are different from those presented here. Counsel conceded that [REDACTED] will be able to find employment in Peru as a dentist, and the record reflects that he was employed there as a dentist from January 1987 to June 1990. In the event that [REDACTED] is unable to find employment in her prior professions, such hardship is not characterized as “extreme.” See *Matter of Pilch*, *Santana-Figueroa*, and *Matter of Kim*, *supra*.

Counsel cites *Blanco v. INS*, 68 F.3d. 642, 646 (2<sup>nd</sup> Cir. 1995), to show that country conditions should be considered in assessing hardship. In *Blanco*, the Court of Appeals found [REDACTED] presented sufficient evidence of extreme hardship based on incidents of violence that had been or would be directed at her in El Salvador.

Here, the applicant presented no evidence of specific incidents of threats or violence directed against him, his wife, or his family. The submitted country report on Peru is insufficient to substantiate [REDACTED]’s claim that violence in Peru is so widespread that his wife’s life would be in danger. “General economic conditions in an alien’s native country will not establish “extreme hardship” in the absence of evidence that the conditions are unique to the alien.” *Kuciamba v. INS*, 92 F.3d 496, 500 (7<sup>th</sup> Cir. 1996) (citation omitted). 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)).

As for the claim that the [REDACTED] will not be able to obtain the “best possible medical care and life insurance” in Peru, the fact that medical facilities in a foreign country are not as good as in the United States is not per se extreme hardship. *Matter of Correa*, 19 I&N Dec. 130, 134 (BIA 1984). The loss of a job along with its employee benefits is not extreme or unique economic hardship, but is a normal occurrence when an alien is deported. *Marquez-Medina v. INS*, 765 F.2d 673, 677 (7<sup>th</sup> Cir. 1985). Because life insurance and health insurance are offered as employee benefits, the loss of life insurance would not constitute extreme hardship.

Turning to counsel’s statement that [REDACTED]’s son attends private school with the financial aid of his father, the AAO finds that no evidence has been presented to establish that [REDACTED] and his former wife do not have the resources for his son to continue his education. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, *supra*. Furthermore, as previously stated, economic detriment alone is insufficient to establish extreme

hardship. See, e.g., *INS v. Jong Ha Wang*, 450 U.S. 139, 144 (1981) and *Mejia-Carrillo v. United States INS*, 656 F.2d 520, 522 (9<sup>th</sup> Cir. 1981).

describes her life in Peru as a “nightmare.” Counsel states that has lived in the United States since she was 13 years old and is fully assimilated into the American culture. The AAO recognizes that ’s adjustment to the culture and environment in Peru would be difficult; but these difficulties will be mitigated by the moral support of her husband and in-laws, which are her family ties to Peru. Furthermore, the aliens in *Matter of O-J-O-*, *Matter of Cervantes-Gonzalez*, and *Matter of Recinas*, relied on by counsel to establish extreme hardship, are not in the same position as the who have substantial financial resources to ease their transition to life in Peru. No evidence has been submitted in support of counsel’s claim that the have financial liabilities.

Counsel states that *Arrieta*, *Gutierrez-Centeno*, *Contreras-Buenfil*, *Mejia-Carrillo*, and *Gutierrez-Centeno* indicate the importance of family ties in assessing hardship. The record conveys that is concerned about separation from her family in California. However, courts in the United States have held that separation from one’s family need not constitute extreme hardship. For instance, in *Sullivan v. INS*, 772 F.2d 609, 611 (9<sup>th</sup> Cir. 1985), the Ninth Circuit stated that deportation is not without personal distress and emotional hurt; and that courts have upheld orders of the BIA that resulted in the separation of aliens from members of their families in *Amezquita-Soto v. INS*, 708 F.2d 898, 902 (3d Cir.1983) (finding that neither petitioner nor his daughter would suffer extreme hardship if the petitioner were deported because the grandmother had raised and could care for the child); *Guadarrama-Rogel v. INS*, 638 F.2d 1228, 1230 (9<sup>th</sup> Cir.1981) (separation of parents from alien son is not extreme hardship where other sons are available to provide assistance); *Banks*, *supra* at 763 (separation of a mother from a grown son who elects to live in another country is not extreme hardship); and *Noel v. Chapman*, 508 F.2d 1023, 1027-28 (2d Cir.), *cert. denied*, 423 U.S. 824, 96 S.Ct. 37, 46 L.Ed.2d 40 (1975). In *Dill v. INS*, 773 F.2d 25 (3<sup>rd</sup> Cir. 1985), the Third Circuit affirmed the BIA’s decision in finding no extreme hardship to the petitioner or to the couple that raised her on account of separation, as the BIA stated the petitioner “is an adult who can establish her own life and need not depend primarily on her parents for emotional support in the same way as a young child.”

The record before the AAO is insufficient to show that the emotional hardship, which will be endured by if she is separated from her mother, stepfather, and brother, is unusual or beyond that which is normally to be expected upon removal. See *Hassan*, *Shoostary*, *Perez*, *Amezquita-Soto*, *Guadarrama-Rogel*, *Banks*, *Noel*, and *Dill*, *supra*, finding separation of family does not constitute extreme hardship.

As for counsel’s claim that ’s parents have serious medical problems, the letter from reveals that ’s mother had surgery for abdomen problems, but the record does not convey that her mother has had ongoing, serious health issues. Nor does the letter from Healthcare Imaging Center imply that ’s stepfather has serious medical problems.

indicates that he underwent laparoscopic surgery and his wife was hospitalized for Typhus and Salmonella. No documents in the record indicate that either or his wife has a serious medical condition for which treatment is not available in Peru.

In considering the hardship factors raised here, the AAO examines each of the factors, both individually and cumulatively, to determine whether extreme hardship has been established. It considers whether the cumulative effect of claims of economic and emotional hardship would be extreme, even if, when considered

separately, none of them would be. It considers the entire range of factors concerning hardship in their totality and then determines whether the combination of hardships takes the case beyond those hardships ordinarily associated with removal.

In the final analysis, the AAO finds that the requirement of significant hardships over and above the normal economic and social disruptions involved in removal has not been met so as to warrant a finding of extreme hardship. Having carefully considered each of the hardship factors raised, both individually and in the aggregate, it is concluded that these factors do not in this case constitute extreme hardship to a qualifying family member for purposes of relief under 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v).

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)(9)(B)(v) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* Section 291 of the Act, 8 U.S.C. § 1361. The applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.