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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

[redacted]

H2

FILE: [redacted] Office: CHICAGO Date: AUG 13 2009

IN RE: [redacted]

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

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Michael Shumway

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The District Director, Chicago, Illinois, denied the instant waiver application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant's present counsel appears to have taken the case on appeal, but to have had no previous involvement as the applicant's representative. The applicant was previously represented by other counsel. All representations will be considered, but this decision will be furnished only to the applicant and her present counsel of record.

The record reflects that the applicant is a native and citizen of Ireland, the spouse of a U.S. citizen, the mother of two U.S. citizen daughters,[1] and the beneficiary of an approved Form I-130 petition. The applicant was found inadmissible to the United States pursuant to section 212(a)(9)(B)(i) of the Immigration and Nationality Act (INA, the Act), 8 U.S.C. § 1182(a)(9)(B)(i), and to section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i). The applicant seeks a waiver of inadmissibility in order to reside in the United States with her husband and daughters.

The district director found that the applicant had been unlawfully present in the United States for more than six months but less than a year and is therefore inadmissible pursuant to section 212(a)(9)(B)(i)(I) of the Act. The director also found that the applicant is inadmissible pursuant to section 212(a)(6)(C)(i) of the Act for having procured admission to the United States by fraud or misrepresentation of a material fact. The district director further found that the applicant failed to establish extreme hardship to her U.S. citizen spouse, and denied the application.

On appeal, counsel submitted a brief and additional evidence. In the brief, counsel raised a procedural objection to these proceedings. Counsel stated that the request for evidence (RFE) that obliged the applicant to submit a request for waiver did not specify the basis upon which the applicant was found to be inadmissible. Counsel stated, "This resulted in [the applicant] waiving arguments that she would have made had the RFE been clear."

The AAO does not deem any arguments to have been waived by the failure to address them in response to the RFE, notes that the grounds of the applicant's inadmissibility were made clear in the decision of denial, and further notes that the applicant has been accorded an opportunity to contest her inadmissibility and to provide evidence to show whether waiver can and should be granted. Any prejudice that may arguably have been occasioned by the failure to notify the applicant of the grounds inadmissibility in the RFE has been cured.

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

> Any alien (other than an alien lawfully admitted for permanent residence) who –

[1] The Form I-601 waiver application, submitted on September 23, 2005, states that the applicant and her husband then had one daughter. The record contains a birth certificate showing that a second daughter was born to the applicant and her husband on January 24, 2006.

> (I) was unlawfully present in the United States for a period of more than 180 days but less than 1 year, voluntarily departed the United States (whether or not pursuant to section 1254a(e) of this title) prior to the commencement of proceedings under section 1225(b)(1) or section 1229(a) of this title, and again seeks admission within 3 years of the date of such alien's departure or removal, or
>
> (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.

Section 212(a)(6)(C)(i) of the Act provides:

> In general.—Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

In *Matter of S- and B-C-*, 9 I&N Dec. 436, 448-449 (BIA 1960; AG 1961), the Board of Immigration Appeals defined the elements of a material misrepresentation, as follows:

> A misrepresentation made in connection with an application for visa or other documents, or with entry into the United States, is material if either:
>
> 1. the alien is excludable on the true facts, or
> 2. the misrepresentation tends to shut off a line of inquiry which is relevant to the alien's eligibility and which might well resulted in proper determination that he be excluded.

The Form I-601 waiver application shows that the applicant has entered the United States on nine occasions, entering each time under the terms of the Visa Waiver Program (VWP). The first seven entries show that the applicant was in the United States for two months or less.

That application shows that the applicant then entered the United States on September 29, 2001 and stayed until July 13, 2003, when she departed. That application states that the applicant again reentered the United States on August 12, 2002 and remained. The AAO notes that the indication that the applicant last departed the United States during 2003 is contradicted by the assertion that she subsequently entered during 2002.

In a brief filed with the Form I-601 waiver application, the applicant's previous counsel clarified this matter, stating that the applicant came to the United States as a visitor on September 29, 2001 and was admitted as a visitor, authorized to remain in the United States until December 28, 2001, but

then stayed until July 13, 2002. He further stated that after her departure on that date, she reentered, again as a visitor, on August 12, 2002, and has not left since.

A marriage certificate in the record shows that the applicant and her husband were married on August 2, 2003 in Cook County, Illinois.

The record contains a photocopy of some pages of a passport issued to the applicant on May 26, 1997. That passport was issued in the name on the applicant's birth certificate, [redacted]. Although that passport did not expire until May 26, 2007, the record contains a photocopy of portions of another passport, which was issued to the applicant on August 9, 2002. That passport shows a different home address and was issued in the name [redacted] which is apparently a Gaelic transliteration of the applicant's name. The applicant used that passport to enter the United States on August 12, 2002.

In the decision of denial, the district director stated that, during an interview on March 24, 2005, the interviewing officer noted that the applicant had entered the United States on August 12, 2002, and asked, several times, whether the applicant had ever been in the United States previously. The applicant replied, on each occasion, that she had not.

The record contains a declaration signed by the applicant. Although a notary indicated that she witnessed the applicant's signature on May 20, 2008, the applicant dated her signature May 21, 2008. In that declaration, the applicant stated,

> During the [March 24, 2005] interview, the officer asked me if I had ever been in the [United States] before a certain date. I don't remember the exact date that the officer mentioned, but I do know that I had been in the United States on visits before that date. I told the officer "no," responding that I had never been to the United States before that date. I don't know why I answered the question this way, and I am truly sorry for not responding correctly to the officer's question."

In a brief filed on appeal, counsel stated that during a preflight inspection at Dublin International Airport on August 4, 2002 the applicant was found inadmissible for overstaying her most recent visa. Counsel further stated that when the applicant was refused admission, she applied for a new passport which she presented and with which she sought, and received, admission to the United States on August 12, 2002 at Miami, Florida. Those assertions of counsel are supported by the evidence. Counsel did not explain why the applicant, who then had a passport valid for five additional years, sought and obtained a new passport under a different name.

In a declaration dated May 21, 2008, the applicant's husband stated that after the applicant was denied entry into the United States in Dublin, she applied for and received a new passport, which she used to enter the United States. In her own declaration the applicant stated that after she was denied entry into the United States at Dublin on August 4, 2002, "[she] applied for a new passport using [her] Irish name and was admitted to the U.S. on August 12, 2002."

The applicant did not state how she was able to acquire a passport bearing a name other than her legal name as shown on her birth certificate and on her previous passport. Further, although she did not directly address the reason she sought a new passport when her previous passport was still valid for almost five years, the evidence in the record shows that the applicant, having been found inadmissible for three years for unlawful presence of six months or more, disguised her identity by discarding her original passport and applying for a new passport using a different name. With that new passport the applicant was able to conceal her identity and, thus, the fact that she was inadmissible. She attempted to conceal that inadmissibility again at her March 24, 2005 interview, by stating that she had never entered the United States prior to August 12, 2002, when, in fact, she had, which constitutes a misrepresentation of a material fact, given that she was inadmissible due to her previous overstay.

The facts of the case demonstrate that the applicant disguised her identity in order to conceal her inadmissibility and enter the United States. She again misrepresented a material fact at her March 24, 2005 interview by stating that she had never been to the United States previously, when, if the truth had been known, she would have been found inadmissible. She thus misrepresented material facts as contemplated in section 212(a)(6)(C)(i) of the Act, and is inadmissible pursuant to that subsection.

The evidence in the record is also sufficient to show that the applicant entered the United States on September 29, 2001 with an authorized stay until December 28, 2001, and overstayed that period until July 13, 2002, thus accumulating unlawful presence from December 29, 2001 through July 13, 2002, a period in excess of six months, but less than one year. Finally, the evidence shows that the applicant departed the United States on July 13, 2002, thus triggering her three-year inadmissibility pursuant to section 212(a)(9)(B)(i)(I) of the Act.

On appeal, counsel argued that the applicant's three-year inadmissibility pursuant to section 212(a)(9)(B)(i)(I) of the Act has expired, and she is no longer inadmissible pursuant to that section. The AAO notes that the applicant's three-year inadmissibility began on July 13, 2002, when she departed the United States, and that she subsequently reentered the United States on August 12, 2002, only one month later, and has remained in the United States since that date. The applicant did not remain outside the United States for three years as required. Because the applicant is permanently inadmissible pursuant to section 212(a)(6)(C)(i) of the Act, however, no purpose would be served in addressing the issue of the applicant's inadmissibility pursuant to section 212(a)(9)(B)(i)(I) of the Act.

The balance of this decision will pertain to whether waiver of the applicant's inadmissibility pursuant to section 212(a)(6)(C)(i) of the Act is available and whether the applicant has demonstrated that waiver of that inadmissibility, if available, should be granted.

Section 212(i)(1) of the Act provides, in pertinent part:

> The Attorney General [now Secretary of Homeland Security] may, in the discretion of the Attorney General [now Secretary of Homeland Security], waive the application of clause (i) of subsection (a)(6)(C) in the case of an immigrant who is the spouse,

> son, or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully permanent resident spouse or parent of such an alien . . ."

A waiver of inadmissibility under section 212(i) of the Act 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 her children is not directly 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 husband is the only qualifying relative in this case. If extreme hardship to a qualifying relative is established, the Secretary then assesses whether an exercise of discretion is warranted. *See Matter of Mendez-Moralez,* 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 nonexclusive list of 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 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).

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 record contains letters from people with whom the applicant's husband has contracts, and from the applicant's friends, employer, priest, and relatives by marriage. Many of those letters are character references, with no relevance to whether removal of the applicant to Ireland will cause hardship to her husband. Some describe the history of the relationship of the applicant and her husband, but, again, do not directly address the hardship the applicant's husband would suffer if she is removed. Those letters that fail to explicitly address hardship to the applicant's husband will not be further addressed.

Many of the remaining letters offer conclusory statements that removal of the applicant would disrupt her family, cause turmoil, and cause her husband to suffer hardship. These statements provide no concrete evidence or discussion of the specific nature of the hardship that the applicant's husband would suffer, or that his hardship would be extreme, or that it would be greater than would be the case whenever a spouse is removed from the United States. The letters are evidence and will be considered, but are of little probative value in determining whether the applicant's removal would cause her husband extreme hardship.

In her May 20, 2008/May 21, 2008 declaration, the applicant stated that her parents and four siblings still reside in Ireland and that she has no family members in the United States. She stated that she does bookkeeping for both of her husband's businesses.

The applicant stated that she previously worked in Ireland as a teacher, but that finding a job in Ireland would be difficult for her now because the curriculum changed and she missed the training for teaching the new curriculum. She provided no information pertinent to what that training would cost or how long it would take. The AAO is unable to find that acquiring that training would pose more than minimal hardship to the applicant or her husband.

The applicant stated that her husband would be unable to join her in Ireland for a few years because he would need to wind up his development business, his sewer and water business, and his real estate holdings. She further stated that he has never worked in sewer and water in Ireland, and that the piping systems are completely different. Further still, as to the applicant's experience in development and construction, she stated that those fields are different in Ireland, citing the rainy weather.

The applicant provided no evidence to support her assertion that installation and service of sewer and water systems in Ireland differ vastly from those in the United States. She also offered no evidence to corroborate her assertion that inclement weather halts construction in Ireland, or that it halts construction more often than in Chicago.

The applicant stated that she is concerned about the medical care that would be available to her family in Ireland. She stated that health care is "typically tied to employment," without further explanation. She also noted that the hospital is 20 miles from her parents' home in County Monaghan. She added, however, that when her husband joined her in Ireland, they would not live with her parents, but would move to the city so that her husband could get work.

The record contains no indication that the applicant, her husband, or her children have existing health concerns that require treatment. The evidence submitted is insufficient to show that the health care in Ireland, wherever the applicant might chose to live, with or without her husband, is so inferior that it would cause her husband hardship which, when considered together with the other hardship factors, would rise to the level of extreme hardship.

Finally, the applicant's wife stated that she is concerned that if she is separated from her husband for any period of time he may become depressed and drink to excess. The evidence in the record, however, is insufficient to show that the applicant's husband is likely to drink to excess in the absence of his family.

The record contains a declaration, dated May 20, 2008, from the applicant's husband. He stated that he was born in Galway, Tuam County, Ireland, where his parents and three of his siblings now live. He confirmed that the applicant has become important to his business, taking care of necessary paperwork. He stated that if his wife were removed from the United States, he would be obliged to hire someone to replace her, but that because of fluctuations in his business he would be able to hire them for only a few months at a time, and that during the slower months he would be obliged to do the paperwork himself, which would be difficult. The evidence submitted is insufficient to show that this would constitute a hardship which, when considered with the other hardship factors in this case, would rise to the level of extreme hardship.

The applicant's husband stated that if the applicant is obliged to move to Ireland he would move there too, but that he would be obliged to dispose of his businesses and property, including the family's new house. He stated that finding work in Ireland would be difficult because plumbing there is entirely different, as are contracting and construction in general, but that eventually he would find one.

Previous counsel provided printouts of web content pertinent to the apprenticeship program in Ireland. That web content does not address whether initial employment as an apprentice is the only way of gaining access to work in a particular trade. Further, although various documents in the record state, that by going back to Ireland, the applicant's husband would necessarily have to "start at the bottom," the AAO notes that he would likely acquire considerable capital if he liquidates his holdings in the United States.

Counsel provided printouts of web content pertinent to Ireland. Although the nature of some of the groups maintaining the websites is unclear, most appear to be unofficial sources.

The exception is a printout from a site maintained by the U.S. Department of State pertinent to Human Rights Practices in Ireland. Although it reveals some human rights abuses, counsel provided no argument for the proposition that they would somehow affect the applicant's husband. That State Department web content also states,

> The national minimum wage is approximately $12.63 (8.65 euros) per hour, which did not provide a decent standard of living for a worker and family; however, low-income families are entitled to such benefits as subsidized housing, medical coverage, and children's allowances.

Two printouts note that Ireland is currently exhibiting sound economic growth, including job creation and unusually low unemployment. The authors of those articles questioned the soundness of the economic boom, however, arguing that because its growth is based on foreign-owned

companies and construction for its vigor, the current boom may not continue. Another website states the opinion that the growth of the economy is likely to diminish. Photocopies of what appear to be articles from unidentified Irish newspapers state that unemployment has risen in Ireland in general and in County Galway in particular.

Although some of those articles, if credible, suggest a slowdown or impending slowdown in the Irish economy, the record contains insufficient evidence to demonstrate that the slowdown or projected slowdown of the Irish economy would likely affect the applicant's husband, or, if it did, that it would occasion hardship to him which, when considered with the other hardship factors in this case, would rise to the level of extreme hardship.

Another printout of web content indicates that primary school class size in Ireland has not been diminished from 27 to 26 as previously promised. Counsel provided no argument for the proposition that this will have any deleterious effect on the applicant's husband.

Content from two websites describe the brutal murder of a man by members of a local chapter of an outlawed political party in Oram, County Monaghan. Another website states that Ireland has a crime rate worse than any other country in the European Union. That article did not compare the crime rate in Ireland to the rate in the United States in general, or in the Chicago area in particular. There is no indication that the removal of the applicant, with or without her family, would subject family members to such increased risk of crime that it would cause hardship to the applicant's husband which, when considered with the other hardship factors in this case, would rise to the level of extreme hardship.

Another website describes a one-day strike threatened by Irish teachers, and one describes misbehavior of Irish school children, including use of foul language and selling drugs. Counsel provided no argument to demonstrate that any of these factors will have an adverse effect on the applicant's husband.

Some websites describe lung difficulties that may be occasioned by damp weather and the state of public health and health care in Ireland. The record contains no indication that those factors will affect the applicant's husband.

The record contains a report, dated January 8, 2007, from [redacted], a psychologist. Dr. [redacted] stated that, on December 18, 2006, she interviewed the applicant and her husband, with their children present. [redacted] stated that the applicant's husband has been anxious and depressed since his wife's application was denied, and has largely lost interest in leisure activities. She stated that he has been overeating and drinking more, and has gained 12 – 20 lbs. He feels guilty and has difficulty concentrating. He also stated that he engages in suicidal ideation. All of those statements appear to be based on information provided by the applicant and her husband.

[redacted] stated that the applicant's husband has decided that he will accompany his wife and children to Ireland if his wife is removed from the United States, but would have to remain in the United States for at least a year to sell his assets and to wind up business projects. [redacted] stated,

apparently based on an assertion made by either the applicant or her husband, that, in Ireland, the applicant's husband would no longer own a plumbing company, but would only qualify to be a plumbing apprentice. [redacted] reported that the applicant's husband stated that living in Ireland would be unbearable, that he could not stay there, and that he would be suicidal. [redacted] stated, again, apparently based on statements of either the applicant or her husband, that the applicant's husband suffered trauma at his parents' hands in Ireland and will manifest psychiatric symptoms if he is unable to avoid situations that remind him of his trauma.

Based on the information provided by the applicant and her husband at their interview, [redacted] diagnosed the applicant's husband with APA DSM-IV 296.22, Major Depressive Disorder, Single Episode. [redacted] also stated that, if the applicant's children are separated from their father, they will develop Separation Anxiety Disorder and depressive symptomotology." [sic] Elsewhere, she stated that, "[If the children are] separated from a parent for a significant period, [they will be] at high risk for the development of separation anxiety disorders, depressive symptomotology, [sic] and symptoms of isolation." She concluded that, "If [the applicant] should indeed be deported, I would expect [her husband's] depression to exacerbate into an extremely severe major depression with serious risk of suicidal behavior."

Although the input of any mental health professional is respected and valuable, the AAO notes that the submitted report is based on a single interview of the applicant and her husband conducted by the psychologist. That interview was apparently arranged so that the psychologist could produce a report to be used in these proceedings, based almost solely on information provided by the applicant and her husband. The record fails to reflect an ongoing relationship with the applicant's husband or any history of treatment for the disorder allegedly suffered by the applicant's husband. Moreover, the conclusions reached in the submitted report, being based on a single self-reporting interview, do not reflect the insight and elaboration commensurate with an established relationship with a psychologist, thereby rendering [redacted] findings speculative and diminishing the report's value in determining extreme hardship.

In a brief submitted on appeal, counsel cited the applicant's husband's declaration for the propositions (1) that the applicant's husband believes that to wind up his businesses will take approximately two years, (2) that it would be difficult for the applicant's husband to leave those businesses after working to start them, (3) that the applicant's husband believes that finding employment in Ireland would be difficult, (4) that the plumbing system in Ireland is completely different from that in the United States and the applicant's husband would have to learn the new system before he would be employable, (5) he would have to develop business connections, (6) that being unemployed would be psychologically and emotionally damaging to the applicant's husband, (7) that the applicant's husband would be adversely affected by his parents' reaction to his return to Ireland, and (8) that the applicant's husband is concerned that the shock of moving to Ireland may damage his daughters.

Counsel cited the January 8, 2007 report of [redacted] to support the propositions that the applicant's husband is depressed, and that removal of the applicant from the United States would exacerbate her husband's depression.

Counsel cited the web content printouts and news articles in support of the propositions (1) that Ireland is unreasonably dangerous, (2) that a single worker is unable to support a family on only the minimum wage, (3) that unemployment may increase in Ireland, (4) that rising food prices have increased the cost of living in Ireland, (5) that the poor economy has affected the educational system by obliging the government to lay off teachers, causing overcrowding, (6) that inequality exists in pay and promotions for women in Ireland, (7) that Ireland's public health system is "beleaguered and increasingly bureaucratic," and (8) that the cold, damp weather in Ireland can aggravate symptoms of depression. Counsel argued that the evidence pertinent to hardship factors, when considered together, shows that the applicant's husband would suffer extreme hardship if the applicant is removed from the United States, whether or not he accompanied her.

The consideration of the hardship that removal of the applicant would occasion to the applicant's husband is twofold. First, the AAO will consider the hardship that he would experience if the applicant is removed to Ireland and he joins her; second, the AAO will consider the hardship that he would experience if the applicant is removed to Ireland and he remains in the United States.

Initially, the AAO notes that the applicant's husband would not be obliged to abandon his interests in the United States if he went to Ireland to join his wife. He would be obliged to sell them or, if he adjudged it to be feasible, to continue to own them as an absentee. The record contains no indication of the amount the applicant's husband might hope to obtain through liquidation, or what income properties might feasibly be retained. The record contains no indication of the amount the applicant's husband would be obliged to expend if he wished to obtain similar interests in Ireland. The evidence does not show that the applicant cannot obtain employment in Ireland and does not quantify any financial hardship he would experience as a consequence of relocation.

The applicant and others have alleged, but provided no evidence to support, that the plumbing and wastewater systems in Ireland are so different that the applicant's husband would be obliged to learn his trade anew. Although statements by the applicant, her husband, and others are relevant and have been taken into consideration, little weight can be accorded them in the absence of supporting evidence. An unsupported statement is insufficient to sustain 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)). The evidence does not demonstrate that the hardware, the building codes, or any other aspect of plumbing in Ireland is so manifestly different from that in the United States that it would pose a great obstacle.

Similarly, the applicant's husband and others have stated, or, in some cases, implied, that the applicant's husband would be forbidden to work in his field because he had not been through an apprenticeship in Ireland. No evidence was submitted that supports this assertion. The documents pertinent to apprenticeship programs do not indicate that a qualified plumber may not enter a trade in any other manner. In fact, the record contains a recruiting announcement for journeyman plumbers that indicates that the position requires two to three years of experience, but does not state that the experience must have been acquired in an apprenticeship program or even that it must have been acquired in Ireland. No evidence in the record supports the assertion that the applicant's husband

would be barred from employment, or even handicapped in securing it, because he has not served a formal apprenticeship.

Counsel noted that an individual with a minimum wage job in Ireland is unable to support a family decently, implying that the applicant's husband would, therefore, be unable to adequately support his family in Ireland. The AAO finds no reason in the record, however, that the applicant herself would be unable to work as necessary to supplement the family income. The AAO further finds no reason in the record to believe that the applicant's husband would only qualify for a minimum wage job. Finally, the web content upon which counsel relied, in his analysis, for the proposition that the income from a single minimum wage job is insufficient to support a family decently also states, within the same sentence, that various allowances are available to low income families. The record does not show that the applicant and her husband would be unable to support themselves in Ireland.

The applicant's husband's statement that he has a poor relationship with his parents and the siblings who remain in Ireland has no other substantiation in the record. Further, the applicant's husband would not be obliged to live with his parents, and the record contains no indication that he would. The applicant's wife indicated that they would expect to relocate near her parents, at least initially. Under these circumstances, the AAO cannot find that residing in the same country with his parents would constitute a hardship for the applicant's husband.

The remaining issue is the hardship that the applicant's husband would suffer if the applicant and their children were removed to Ireland and he remained in the United States. As was noted above, the AAO finds the conclusions drawn by [redacted] to be of little probative value.

The record contains no indication that the applicant's husband would be unable to support himself, as he has in the past, if he continued to live in the United States in his wife's absence. Further, although the record contains evidence that the price of food has risen in Ireland, and, with it, the cost of living, the record contains no indication of the amount that the applicant would require in order to live with her children in Ireland, and no evidence, or even an assertion, that she would be unable to work. The AAO cannot, therefore, find that the applicant's husband would be unable to remit a sufficient amount to Ireland to support his family, if any such amount would, in fact, be required. Further, notwithstanding the report of [redacted], the record contains insufficient evidence to show that the applicant's husband's health would suffer in the absence of his wife. The AAO finds that the evidence in the record is insufficient to demonstrate that, if the applicant is removed to Ireland and the applicant's husband remains in the United States, this arrangement will occasion hardship to him which, when considered together with the other hardship factors in this case, will rise to the level of extreme hardship.

The remaining consideration, in the event that the applicant leaves and her husband remains in the United States, is the emotional turmoil this arrangement would occasion to the applicant's husband. The AAO has no doubt that separation from his wife and children would cause the applicant's husband hardship. That such a separation would be easy is manifestly unlikely. The hardship that it would cause would be attenuated, somewhat, by the ability of the applicant's husband, on occasion, to visit his wife and children, and the ability of the children to come to the United States to visit, or

even to live with, their father. The AAO finds insufficient evidence in the record to demonstrate that, if the applicant is removed to Ireland and her husband remains in the United States, this will occasion hardship to him which, when considered together with the other hardship factors in this case, will rise to the level of extreme hardship.

The evidence in the record is insufficient to show that, if the applicant is removed to Ireland and her husband remains in the United States, this will cause him hardship which, when all the hardship factors are considered together, will rise to the level of extreme hardship.

The record, reviewed in its entirety and in light of the *Cervantes-Gonzalez* factors, cited above, does not support a finding that the applicant's husband faces extreme hardship if the applicant is refused admission. Rather, the record suggests that he will face no greater hardship than the unfortunate, but expected, disruptions, inconveniences, and difficulties arising whenever a spouse is removed from the United States.

The record demonstrates that the applicant has a loving and devoted husband who is extremely concerned about the prospect of the applicant's departure from the United States. Although the depth of concern and anxiety over the applicant's immigration status is neither doubted nor minimized, the fact remains that Congress provided for a waiver of inadmissibility only under limited circumstances.

In nearly every qualifying relationship, whether between husband and wife or parent and child, there is affection and a certain amount of emotional and social interdependence. While, in common parlance, separation or relocation nearly always results in considerable hardship to individuals and families, in specifically limiting the availability of a waiver of inadmissibility to cases of "*extreme* hardship," Congress made plain that it did not intend that a waiver be granted in every case where a qualifying relationship, and thus the familial and emotional bonds, exist.

Separation from one's spouse or child is, by its very nature, a hardship. The point made in this and prior decisions on this matter, however, is that the law requires that, in order to meet the standard in INA § 212(i), the hardship must be greater than the normal, expected hardship involved in such cases.

U.S. court decisions have repeatedly held that the common results of removal are insufficient to prove extreme hardship. *See Hassan v. INS,* 927 F.2d 465, 468 (9th Cir. 1991), *Perez v. INS,* 96 F.3d 390 (9th Cir. 1996); *Matter of Pilch,* 21 I&N Dec. 627 (BIA 1996) (holding that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship); *Matter of Shaughnessy,* 12 I&N Dec. 810 (BIA 1968) (holding that separation of family members and financial difficulties alone do not establish extreme hardship). "[O]nly in cases of great actual or prospective injury . . . will the bar be removed." *Matter of Ngai,* 19 I&N Dec. 245, 246 (BIA 1984). Further, demonstrated financial difficulties alone are generally insufficient to establish extreme hardship. *See INS v. Jong Ha Wang*, 450 U.S. 139 (1981) (upholding BIA finding that economic detriment alone is insufficient to establish extreme hardship).

The AAO therefore finds that the applicant failed to establish extreme hardship to her U.S. citizen spouse as required under INA § 212(i), 8 U.S.C. § 1186(i) and that waiver is therefore unavailable. Because the applicant has been found statutorily ineligible, the AAO need not address whether the applicant merits 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 rests with the applicant. INA § 291, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.