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

(b)(6)

U.S. Citizenship and Immigration Services

DATE: FEB 0 8 2013 Office: HIALEAH, FL FILE:

IN RE: Applicant:

APPLICATION: Application for Waiver of Ground of Inadmissibility pursuant to section 212(h) of the Immigration and Nationality Act, 8 U.S.C. § 1182(h)

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

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

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

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Hialeah, Florida, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of St. Kitts and Nevis who was found to be inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having committed a crime involving moral turpitude. The applicant is the spouse and parent of U.S. citizens. He seeks a waiver of inadmissibility pursuant to section 212(h) of the Act, 8 U.S.C. § 1182(h), in conjunction with an adjustment of status application, in order to remain in the United States as a lawful permanent resident with his spouse and minor child.

The Field Office Director concluded that the applicant had failed to demonstrate that the bar to his admission would result in extreme hardship to his qualifying relative, as required under section 212(h) of the Act, and denied his Form I-601, Application for Waiver of Grounds of Inadmissibility, accordingly. *Field Office Director's Decision*, dated July 8, 2011.

On appeal, counsel asserts that the director erred in finding that the applicant had not demonstrated that a bar to his admission would cause extreme hardship to his U.S. citizen spouse. *See Form I-290B, Notice of Appeal or Motion,* dated August 8, 2011. Counsel further asserts that since the filing of the motion, the applicant now has a newborn U.S. citizen child, who is also a qualifying relative and would also suffer extreme hardship if the applicant's waiver application is denied.

The record of evidence includes, but is not limited to, counsel's briefs; the applicant's statement; the applicant's U.S. citizen wife's statements; a letter from the applicant's social worker; a letter regarding the applicant's mental health status from Dr. [redacted] M.D.; medical records for the applicant's spouse and child; the applicant's and his spouse's tax and wage records; St. Kitts and Nevis police certificate for the applicant; documents evidencing the bona fide marital relationship of the applicant and his spouse; background materials regarding conditions in St. Kitts and Nevis; and the applicant's criminal records. The entire record was reviewed and all relevant evidence considered in reaching a decision on the appeal.

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

> (i) [A]ny alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of –
>
> (I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime . . . is inadmissible.

The record reflects that the applicant was admitted to the United States on or about September 9, 2007 as a B2 nonimmigrant visitor for an authorized period not exceeding March 8, 2008. The applicant remained in the United States beyond the authorized period of stay. The applicant married his U.S. citizen spouse on November 27, 2007. On December 5, 2008, the applicant was arrested on several counts of battery and aggravated battery. On May 18, 2009, he was convicted of three counts of misdemeanor battery in the first degree in violation of section 784.03 of the Florida

Statutes (Fla. Stat.), one count of felony battery in the third degree under Fla. Stat. § 784.03, and one count of felony aggravated assault with a deadly weapon in the third degree under Fla. Stat. § 784.021(1)(a). The applicant was sentenced to two years of probation on the latter two counts.

As counsel does not dispute the finding of inadmissibility under section 212(a)(2)(A)(i)(I) of the Act of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of a crime involving moral turpitude, and the record does not show that finding of inadmissibility to be in error, the AAO will not disturb the determination.

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

> The Attorney General [Secretary of Homeland Security] may, in his discretion, waive the application of subparagraph (A)(i)(I), (B), . . . of subsection (a)(2) . . . if –
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> (1) (A) in the case of any immigrant it is established to the satisfaction of the Attorney General [Secretary] that --
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> (i) . . . the activities for which the alien is inadmissible occurred more than 15 years before the date of the alien's application for a visa, admission, or adjustment of status,
>
> (ii) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States, and
>
> (iii) the alien has been rehabilitated; or
>
> (B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General [Secretary] that the alien's denial of admission would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien . . . .
>
> …; and
>
> (2) the Attorney General [Secretary], in his discretion, and pursuant to such terms, conditions and procedures as he may by regulations prescribe, has consented to the alien's applying or reapplying for a visa, for admission to the United States, or adjustment of status.

Section 212(h) of the Act provides that a waiver of the bar to admission is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member. 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, 301 (BIA 1996). The record establishes that the applicant's qualifying relatives for purposes of this waiver are his U.S. citizen spouse and minor daughter.

Even if the applicant were able to satisfy the requirements of section 212(h) of the Act, however, the waiver may still be denied in the adverse exercise of discretion. For waivers of inadmissibility, the burden is on the applicant to establish that a grant of a waiver of inadmissibility is warranted in the exercise of discretion. *Matter of Mendez-Moralez*, 21 I&N Dec. 296, 299 (BIA 1996). The adverse factors evidencing an alien's undesirability as a permanent resident must be balanced with the social and humane considerations presented on his behalf to determine whether the grant of relief in the exercise of discretion appears to be in the best interests of this country. *Id.* at 300.

However, the AAO cannot find, based on the facts of this particular case, that the applicant merits a favorable exercise of discretion solely on the balancing of favorable and adverse factors. The applicant's conviction indicates that he may be subject to the heightened discretion standard of 8 C.F.R. § 212.7(d), which provides that the Secretary of Homeland Security will not favorably exercise discretion if the applicant's conviction involves a "violent or dangerous" crime, except in an extraordinary circumstance.

The regulation at 8 C.F.R. § 212.7(d) provides:

> The Attorney General [Secretary, Department of Homeland Security], in general, will not favorably exercise discretion under section 212(h)(2) of the Act (8 U.S.C. 1182(h)(2)) to consent to an application or reapplication for a visa, or admission to the United States, or adjustment of status, with respect to immigrant aliens who are inadmissible under section 212(a)(2) of the Act in cases involving violent or dangerous crimes, except in extraordinary circumstances, such as those involving national security or foreign policy considerations, or cases in which an alien clearly demonstrates that the denial of the application for adjustment of status or an immigrant visa or admission as an immigrant would result in exceptional and extremely unusual hardship. Moreover, depending on the gravity of the alien's underlying criminal offense, a showing of extraordinary circumstances might still be insufficient to warrant a favorable exercise of discretion under section 212(h)(2) of the Act.

The AAO notes that the words "violent" and "dangerous" and the phrase "violent or dangerous crimes" are not further defined in the regulation, and the AAO is aware of no precedent decision or other authority containing a definition of these terms as used in 8 C.F.R. § 212.7(d). A similar phrase, "crime of violence," is found in section 101(a)(43)(F) of the Act, 8 U.S.C. § 1101(a)(43)(F). As provided under that section of the Act, a crime of violence, as defined by 18 U.S.C. § 16, is an aggravated felony if the term of imprisonment is at least one year. Under 18 U.S.C. § 16, a crime of violence is an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, *or* any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense. By its definition, a "crime of violence" is, therefore, limited to those crimes specifically falling within 18 U.S.C. § 16. It is not a generic term with application to any crime involving violence, as that term may be commonly defined. Moreover, we note that the Attorney General declined to reference section 101(a)(43)(F) of the Act or 18 U.S.C. § 16, or the specific language thereof, in promulgating 8 C.F.R. § 212.7(d). Accordingly, we find that the statutory terms "violent or dangerous crimes" and "crime of violence" are not synonymous and the determination that a crime is a violent or dangerous crime under 8 C.F.R. §

212.7(d) is not dependent on it having been found to be a crime of violence under 18 U.S.C. § 16 or an aggravated felony under section 101(a)(43)(F) of the Act. *See* 67 Fed. Reg. 78675, 78677-78 (December 26, 2002).

Nevertheless, we will use the definition of a crime of violence found in 18 U.S.C. § 16 as guidance in determining whether a crime is a violent crime under 8 C.F.R. § 212.7(d), considering also other common meanings of the terms "violent" and "dangerous". The term "dangerous" is not defined specifically by 18 U.S.C. § 16 or any other relevant statutory provision. Thus, in general, we interpret the terms "violent" and "dangerous" in accordance with their plain or common meanings, and consistent with any rulings found in published precedent decisions addressing discretionary denials under the standard described in 8 C.F.R. § 212.7(d). *Black's Law Dictionary* (Ninth ed. 2009) defines violent as "of, relating to, or characterized by strong physical force" and dangerous as "likely to cause serious bodily harm." Finally, decisions to deny waiver applications on the basis of discretion under 8 C.F.R. § 212.7(d) are made on a factual "case-by-case basis." 67 Fed. Reg. at 78677-78.

In the instant case, the applicant was convicted of aggravated assault weapon without intent to kill in violation of Fla. Stat. § 784.021(1)(a). At the time of the applicant's conviction, Fla. Stat. § 784.021(1) provided, in pertinent part:

> (1) An "aggravated assault" is an assault:
>
> (a) with a deadly weapon without intent to kill; or
>
> (b) with an intent to commit a felony.
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> (2) Whoever commits an aggravated assault shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

The definition of "assault" is under Florida Statutes § 784.011(1), which states, in pertinent part:

> (1) An "assault" is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.

The AAO finds that the applicant's conviction for aggravated assault with a deadly weapon constitutes a violent and dangerous crime for purposes of 8 C.F.R. 212.7(d). The applicant must therefore must demonstrate that he merits the section 212(h) waiver under the heightened standard of 8 C.F.R. § 212.7(d). Accordingly, the applicant must show that "extraordinary circumstances" warrant approval of the waiver under either section 212(h) of the Act. 8 C.F.R. § 212.7(d). Extraordinary circumstances may exist in cases involving national security or foreign policy considerations, or if the denial of the applicant's admission would result in exceptional and extremely unusual hardship. *Id.* Finding no evidence of foreign policy, national security, or other extraordinary equities, the AAO considers whether the applicant has "clearly demonstrate[d] that the

denial of . . . admission as an immigrant would result in exceptional and extremely unusual hardship" to a qualifying relative. *Id.*

The Board of Immigration Appeals (BIA), in *Matter of Monreal-Aguinaga*, 23 I& N Dec. 56, 62 (BIA 2001), determined that exceptional and extremely unusual hardship in cancellation of removal cases under section 240A(b) of the Act is hardship that "must be 'substantially' beyond the ordinary hardship that would be expected when a close family member leaves this country." However, the applicant need not show that hardship would be unconscionable. *Matter of Monreal-Aguinaga*, 23 I& N Dec. at 61. Still, the exceptional and extremely unusual hardship standard is more restrictive than the extreme hardship standard. *Cortes-Castillo v. INS*, 997 F.2d 1199, 1204 (7th Cir. 1993). Thus, merely showing extreme hardship to his qualifying relative under section 212(h) of the Act is not sufficient.

The BIA stated that in assessing exceptional and extremely unusual hardship, it would be useful to view the factors considered in determining extreme hardship. *Matter of Monreal-Aguinaga*, 23 I& N Dec. at 63. In *Matter of Cervantes-Gonzalez,* 22 I&N Dec. 560, 565-66 (BIA 1999), the BIA provided a list of factors it deemed relevant in determining whether an alien has established the lower standard of extreme hardship. 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. The BIA added that not all of the foregoing factors need be analyzed in any given case and emphasized that the list of factors was not an exclusive list. *Id.*

In *Monreal*, the BIA provided additional examples of the hardship factors it deemed relevant for establishing exceptional and extremely unusual hardship:

> [T]he ages, health, and circumstances of qualifying lawful permanent resident and United States citizen relatives. For example, an applicant who has elderly parents in this country who are solely dependent upon him for support might well have a strong case. Another strong applicant might have a qualifying child with very serious health issues, or compelling special needs in school. A lower standard of living or adverse country conditions in the country of return are factors to consider only insofar as they may affect a qualifying relative, but generally will be insufficient in themselves to support a finding of exceptional and extremely unusual hardship. As with extreme hardship, all hardship factors should be considered in the aggregate when assessing exceptional and extremely unusual hardship.

23 I&N Dec. at 63-64.

In the precedent decision issued the following year, *Matter of Andazola-Rivas*, the BIA noted that, "the relative level of hardship a person might suffer cannot be considered entirely in a vacuum. It must necessarily be assessed, at least in part, by comparing it to the hardship others might face." 23 I&N Dec. 319, 323 (BIA 2002). The issue presented in *Andazola-Rivas* was whether the Immigration Judge correctly applied the exceptional and extremely unusual hardship standard in a cancellation of removal case when he concluded that such hardship to the respondent's minor

children was demonstrated by evidence that they "would suffer hardship of an emotional, academic and financial nature," and would "face complete upheaval in their lives and hardship that could conceivably ruin their lives." *Id.* at 321 (internal quotations omitted). The BIA viewed the evidence of hardship in the respondent's case and determined that the hardship presented by the respondent did not rise to the level of exceptional and extremely unusual. The BIA noted:

> While almost every case will present some particular hardship, the fact pattern presented here is, in fact, a common one, and the hardships the respondent has outlined are simply not substantially different from those that would normally be expected upon removal to a less developed country. Although the hardships presented here might have been adequate to meet the former "extreme hardship" standard for suspension of deportation, we find that they are not the types of hardship envisioned by Congress when it enacted the significantly higher "exceptional and extremely unusual hardship" standard.

23 I&N Dec. at 324.

However, the BIA in *Matter of Gonzalez Recinas*, a precedent decision issued the same year as *Andazola-Rivas*, clarified that "the hardship standard is not so restrictive that only a handful of applicants, such as those who have a qualifying relative with a serious medical condition, will qualify for relief." 23 I&N Dec. 467, 470 (BIA 2002). The BIA found that the hardship factors presented by the respondent cumulatively amounted to exceptional and extremely unusual hardship to her qualifying relatives. The BIA noted that these factors included her heavy financial and familial burden, lack of support from her children's father, her U.S. citizen children's unfamiliarity with the Spanish language, lawful residence of her immediate family, and the concomitant lack of family in Mexico. 23 I&N Dec. at 472. The BIA stated, "We consider this case to be on the outer limit of the narrow spectrum of cases in which the exceptional and extremely unusual hardship standard will be met." *Id.* at 470.

An analysis under *Monreal-Aguinaga* and *Andazola-Rivas* is appropriate. *See Gonzalez Recinas*, 23 I&N Dec. at 469 ("While any hardship case ultimately succeeds or fails on its own merits and on the particular facts presented, *Matter of Andazola* and *Matter of Monreal* are the starting points for any analysis of exceptional and extremely unusual hardship."). The AAO notes that exceptional and extremely unusual 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.

Counsel contends that the applicant's wife, would suffer financial and physical hardship upon separation from the applicant. The record indicates that after unsuccessful fertility treatments, Mrs. gave birth to the couple's minor daughter on May 11, 2011. The baby was delivered prematurely at 32 weeks because the applicant's wife suffered from a severe case of preeclampsia, a potentially fatal condition for the mother and child. The couple's daughter was in intensive care for three weeks before being discharged. In addition, medical records indicate that during Mrs. caesarean section procedure, doctors discovered pelvic tumors and multiple adhesions, resulting in a large conglomerate that included the bladder, small bowel, and the uterus. In her statement submitted on appeal, the applicant's wife indicates that she has had to have

reconstructive surgery on her bladder and bowel and that it is expected that she will have long term issues with damage caused by the scar tissue.

The AAO notes that the only medical records provided are the summary discharge records for the applicant's wife and daughter. To the best of the AAO's understanding of those records, they indicate that the applicant's child was delivered safely and that doctors were able to successfully repair any damage to Mrs. [redacted] uterus, bowel, and uterus during or immediately after the baby was delivered. They show that Mrs. [redacted] was discharged within five days of her admission and the couple's daughter was discharged less than a month after delivery. While we recognize that the applicant's wife and child had health issues that could have been potentially fatal at the time of delivery, the medical records provided here do not indicate any adverse prognosis or ongoing complications and follow up treatment for either patient. In fact, the records suggest that any health concerns were resolved prior to the discharge of both mother and child. Although counsel hypothesizes about the long term complications for premature babies, there are no letters from a treating physician in this record to suggest that the applicant's daughter's condition is so severe that she is currently suffering such complications or is likely to face them in the future. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the applicant's burden of proof. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

Counsel contends that the applicant is the primary financial provider for the family because Mrs. [redacted] is now unemployed due to her medical condition and her daughter's premature birth. The AAO observes, however, that Mrs. [redacted] indicates in her statement that she is unable to work because she is now a full-time student as well as a mother. She states that the applicant is supporting her financially and emotionally in her pursuit of higher education. Aside from counsel's unsupported assertion, there is no indication in the record that Mrs. [redacted] is currently suffering any ongoing medical complications that prevents her from working to support her family. We note that the couple's past Internal Revenue Service (IRS) tax returns and Forms W2, Wage and Tax Statements, for 2007 to 2009 show Mrs. [redacted] to have been the primary income provider at one time. The record does not corroborate counsel's claim that it is the applicant's wife's and child's medical conditions that prevent the former from contributing financially for the family. It also does not disclose any other reasons why Mrs. [redacted] cannot be gainfully employed again should her husband be denied his waiver application.

The applicant's wife also asserts on appeal that she has a number of debts, including education loans and hospital bills over $50,000. However, although the record contains a copy of a single mortgage bill, a bank statement, and a car insurance bill, the applicant has not provided evidence of the large outstanding debts and expenses his wife asserts. We also note that the record is silent as to the whether the applicant or his wife have any close family ties in the United States to whom Mrs. [redacted] can turn for assistance should her husband's waiver application be denied. Although the AAO acknowledges that the applicant's wife may very well face some financial detriment upon separation, the applicant has failed to demonstrate the financial hardship his wife would face.

The applicant's wife also maintains that she will suffer emotionally upon separation. She indicates that she and her husband have received counseling and guidance on conflict resolution and have grown as a couple since the latter's 2008 arrest and subsequent conviction. She further states that they have a deep love and commitment to one another. However, counsel, the applicant, and his

wife all fail to acknowledge or address in their respective statements the fact that the victim of the applicant's violent criminal offense was the applicant's wife and qualifying relative. The arrest report indicates that on December 5, 2008, the applicant put his wife in a headlock while she was driving on the highway. According to the report, after Mrs. pulled into a gas station, the applicant apparently started punching his wife all over her body and followed her out of the car when she attempted to get away. The report further indicates that he punched her in the face, causing her to fall to the ground, after which the applicant got into the car and attempted to run over his wife with the car. In his attempt, the applicant crashed into a second victim's parked car. Count two of the criminal information indicates that there was a minor passenger in the car. The police report indicates that the applicant than walked up to the second victim and hit him three times on the face with a black handgun. He then slapped a third victim with his right hand while showing the handgun.

The applicant's wife, in a sworn statement made to an immigration officer on January 23, 2009, indicates that she believes that her husband had a mental breakdown because of the fertility treatments they were going through. A February 24, 2009 letter from social worker, , states that the applicant had been diagnosed with Adjustment Disorder with mixed emotional features. It indicates that the applicant has been focusing on dealing with Attention Deficit Disorder, Alcohol Abuse, poor impulse control, and some anger management issues during counseling. In response to a request for evidence demonstrating that the applicant is not inadmissible under section 212(a)(1)(A)(ii) of the Act, on health-related grounds, the applicant provided a letter from Dr. , dated May 27, 2009. Dr. stated that he saw the applicant for a psychiatric evaluation on April 23, 2009 with two follow up visits and diagnosed the applicant as suffering from Adjustment Disorder with Anxiety, Attention Deficit Hyperactivity Disorder by History, and Alcohol Abuse by History. He further noted that he was unable to determine whether the applicant is a threat to property, safety, or others following only three visits within a one month period.

We note that the record lacks any evidence that the applicant has undergone or completed any subsequent or ongoing treatment for his psychiatric conditions or for his alcohol abuse. Nor are these issues addressed by counsel, the applicant or his spouse in their statements. There is likewise no evidence that the couple underwent the counseling sessions as asserted by Mrs. . Based on the record before us, the applicant has not demonstrated the emotional hardship to his spouse upon separation.

Having carefully considered the evidence of record, we find that the applicant has failed to establish that the asserted hardships to his wife rise to the heightened level of exceptional and extremely unusual. We find the record lacking in evidence that would demonstrate that the hardship she would face hardship "substantially" beyond the ordinary hardship that is expected upon separation.

We also consider whether the applicant's wife would suffer exceptional and extremely unusual hardship upon relocation to St. Kitts and Nevis if the waiver application is denied. Counsel and the applicant's wife assert that relocation would result in medical hardship to the applicant's wife and daughter because both are under "constant supervision" by physicians and would not be able to receive the same medical treatment and care in St. Kitts. Mrs. notes that that she would be at high risk for developing preeclampsia again with all future pregnancies, which would require specialist care. The AAO acknowledges that the record shows that the medical care available in St.

Kitts and Nevis is not to the standard provided in the United States. We also understand that the applicant's wife would like to continue to have access to the best medical care possible for herself and her child. However, as previously noted, while the record before the AAO shows that the applicant's wife and child faced potentially life threatening conditions at the time of the latter's birth, it utterly fails to demonstrate that either faces any ongoing or subsequent complications that necessitate follow up medical treatment. Absent medical corroboration, the possibility that they could potentially have future medical problems is insufficient to demonstrate hardship that rises beyond the ordinary hardship faced by others in similar circumstances.

Counsel and the applicant's wife also note that relocation is not possible because the latter has no family in St. Kitts and Nevis, aside from her husband, and that the only family she has is in the United States. Counsel asserts that the applicant's wife has never resided anywhere other than the United States. However, aside from the evidence showing her financial and educational ties to the United States, there are no letters in the record from family, friends, or colleagues demonstrating the applicant's wife's ties to the United States. Additionally, although we recognize that it may be difficult for the applicant's wife to relocate, we note that the main language of St. Kitts and Nevis is English, thus, making it less difficult for the applicant's spouse than others similarly situated to adapt to a different country and culture or seek employment there.

After considering fully the record of evidence, we find that the applicant has failed to demonstrate that the hardship to his wife upon relocation would rise to the level of exceptional and extremely unusual hardship.

In this case, the record does not contain sufficient evidence to show that the hardships faced by the qualifying relative, considered in the aggregate, would rise beyond the common results of removal or inadmissibility to the level of exceptional and extremely unusual hardship. *Matter of Monreal-Aguinaga*, 23 I&N Dec. at 62. The AAO therefore finds that the applicant has failed to show extraordinary circumstances as required under 8 C.F.R. § 212.7(d). Accordingly, he did not demonstrate that he merits a favorable exercise of discretion.

In proceedings for a waiver of grounds of inadmissibility under section 212(h) of the Act, the burden of proving eligibility remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.