**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

[redacted]

Date: FEB 13 2013 Office: OAKLAND PARK FILE: [redacted]

IN RE: Applicant: [redacted]

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

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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 our 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-190B, 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 a motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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, Oakland Park, 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 South Africa 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 been convicted of crimes involving moral turpitude. The applicant seeks a waiver of inadmissibility pursuant to section 212(h) of the Act, 8 U.S.C. § 1182(h), in order to remain in the United States with his U.S. lawful permanent resident (LPR) parents.

In a decision dated August 4, 2011, the field office director denied the Form I-601 application for a waiver, finding that the applicant failed to establish that his U.S. LPR parents would experience extreme hardship as a consequence of his inadmissibility. The field office director further denied the waiver application as a matter of discretion after finding that the applicant's conviction showed a blatant disrespect for the law and that the applicant was capable of committing violent acts using a firearm.

On appeal, the applicant asserts that the field office director erred in finding that the record evidence did not establish that the applicant's bar to admission would result in extreme hardship to his U.S. LPR parents. The applicant states that the evidence outlining psychological, emotional and financial difficulties to the applicant's U.S. LPR parents demonstrate extreme hardship to his qualifying relatives.

The record contains, but is not limited to: the applicant's legal memorandum; country conditions documentation; the applicant's statement; sworn statements prepared by the applicant's parents; copies of income tax returns; college grade reports; psychological evaluations; medical documentation; declarations from the applicant's family members and friends; a termination of supervision letter for the applicant from the Florida Department of Corrections; and documentation regarding the applicant's criminal history.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The entire record has been reviewed and considered in rendering a decision on the appeal.

Section 212(a)(2)(A) of the Act provides, in pertinent part, that:

> (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, or

The Board of Immigration Appeals (Board) held in *Matter of Perez-Contreras*, 20 I&N Dec. 615, 617-18 (BIA 1992), that:

> [M]oral turpitude is a nebulous concept, which refers generally to conduct that shocks the public conscience as being inherently base, vile, or depraved, contrary to the rules of morality and the duties owed between man and man, either one's fellow man or society in general....
>
> In determining whether a crime involves moral turpitude, we consider whether the act is accompanied by a vicious motive or corrupt mind. Where knowing or intentional conduct is an element of an offense, we have found moral turpitude to be present. However, where the required *mens rea* may not be determined from the statute, moral turpitude does not inhere.

(Citations omitted.)

This case arises within the jurisdiction of the Eleventh Circuit Court of Appeals. In evaluating whether an offense constitutes a crime involving moral turpitude, the Eleventh Circuit employs the categorical and modified categorical approach. *Sanchez-Fajardo v. U.S. Att'y Gen.*, 659 F.3d 1303, 1305-06 (11th Cir. 2011). "To determine whether a conviction for a particular crime constitutes a conviction of a crime involving moral turpitude, both [the Eleventh Circuit] and the BIA have historically looked to 'the inherent nature of the offense, as defined in the relevant statute....'" *Id.* at 1305. "If the statutory definition of a crime encompasses some conduct that categorically would be grounds for removal as well as other conduct that would not, then the record of conviction-i.e., the charging document, plea, verdict, and sentence—may also be considered." *Id.* (citing *Jaggernauth v. U.S. Att'y Gen.*, 432 F.3d 1346, 1354-55 (11th Cir. 2005)).

The Eleventh Circuit has rejected the methodology adopted by the Attorney General in *Matter of Silva-Trevino*, 24 I&N Dec. 687 (A.G. 2008). 659 F.3d at 1308-11. While the Attorney General determined that assessing whether a crime involves moral turpitude may include looking beyond the record of conviction, the Eleventh Circuit has stated that "[w]hether a crime involves the depravity or fraud necessary to be one of moral turpitude depends upon the inherent nature of the offense, as defined in the relevant statute, rather than the circumstances surrounding a defendant's particular conduct." *Itani v. Ashcroft*, 298 F.3d 1213, 1215-16 (11th Cir. 2002). In *Sanchez-Fajardo*, the Eleventh Circuit affirmed its reasoning in *Vuksanovic v. U.S. Att'y Gen.*, 439 F.3d 1308, 1311 (11th Cir. 2006), stating that "the determination that a crime involves moral turpitude is made categorically based on the statutory definition or nature of the crime, not the specific conduct predicating a particular conviction." 659 F.3d at 1308-09.

The record shows that on or about August 9, 2007, the applicant was convicted in the Circuit Court in and for Broward County, Florida, of aggravated assault with a deadly weapon and battery, in violation of Florida Statutes §§ 784.021(a) and 784.03, respectively. The applicant was sentenced to four years of probation and court costs for these offenses. The field office director found the applicant was inadmissible under section 212(a)(2)(A)(i)(I) of the Act for having been convicted of crimes involving moral turpitude.

At the time of the applicant's conviction, Florida Statute § 784.021 provided, in pertinent part, that:

(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.

. . .

(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.

In *Matter of O--*, 3 I&N Dec. 193 (BIA 1948), the Board found that assault with a deadly and dangerous weapon (which was unspecified in the complaint) in violation of section 6195 of the General Statutes of Connecticut would involve moral turpitude because "it is inherently base . . . because an assault aggravated by the use of a dangerous or deadly weapon is contrary to accepted standards of morality in a civilized society, and . . . always constituted conduct contrary to acceptable human behavior." *Id.* at 197. Further, in *Matter of Sanudo*, 23 I&N Dec. 968, 971 (BIA 2006), the Board states that "assault and battery with a deadly weapon has long been deemed a crime involving moral turpitude . . . because the knowing use or attempted use of deadly force is deemed to be an act of moral depravity that takes the offense outside the "simple assault and battery" category." (citations omitted).

The AAO notes that aggravated assault in Florida requires proof of a specific intent to do violence. *See Lavin v. State*, 754 So.2d 784, 787 (Fla.App. 3 Dist.,2000). The AAO further notes that in *Dey v. State*, 182 So.2d 266, 268 (Fla.App., 1966), the Court states that aggravated assault is an assault with a deadly weapon that is "likely to produce death or great bodily harm." (citing *Goswick v. State*, 143 So.2d 817 (Fla.1962). In view of the decisions in *Matter of Sanudo* and *Matter of O--*, wherein the knowing use or attempted use of deadly force is deemed to involve moral turpitude, the AAO finds that aggravated assault with a deadly weapon in violation of section 784.021(a) of the Florida Statutes is categorically morally turpitudinous because such an assault is committed with the knowing or attempted use of deadly force. Consequently, based on the foregoing discussion, the AAO finds that the applicant's aggravated assault conviction involves moral turpitude. The applicant does not contest his inadmissibility on appeal. Since the applicant's aggravated assault with a deadly weapon conviction involves moral turpitude, which renders him inadmissible under section 212(a)(2)(A)(i)(I) of the Act, we need not determine whether any of the applicant's other convictions involve moral turpitude.

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

> (h) 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 –
>
> . . .
>
> (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 . . . .

A section 212(h) waiver of the bar to admission resulting from violation of section 212(a)(2)(A)(i)(I) of the Act is dependent first upon a showing that the bar imposes an extreme hardship to the citizen or lawfully resident spouse, parent, son, or daughter of the applicant. Hardship to the applicant is not a consideration under the statute and will be considered only to the extent that it results in hardship to a qualifying relative. The qualifying relatives here are the applicant's U.S. citizen spouse and child. If extreme hardship to the 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). In most discretionary matters, the alien bears the burden of proving eligibility simply by showing equities in the United States which are not outweighed by adverse factors. *See Matter of T-S-Y-*, 7 I&N Dec. 582 (BIA 1957). However, the AAO cannot find that the applicant merits a favorable exercise of discretion solely by balancing the applicant's 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).

The applicant was convicted of aggravated assault with a deadly weapon. 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). Under that section, a crime of violence is an aggravated felony if the term of imprisonment is at least one year. As defined by 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. 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 8 C.F.R. § 212.7(d). Thus, 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). 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.

Here, a conviction under Florida Statutes § 784.021(a) requires proof of a specific intent to do violence that is likely to produce death or great bodily harm to another. *See Lavin v. State*, 754 So.2d at 787; *Dey v. State*, 182 So.2d at 268. Regarding the nature and circumstances of the offense, the arrest affidavit indicates that the applicant struck the victim on his head with the handle of a handgun several times and repeatedly threatened to kill the victim. The affidavit further indicates that, as a result of the attack, the victim suffered an injury to his head. Based upon the statutory elements of the offense of aggravated assault with a deadly weapon, and the nature and circumstances of the offense as reflected in the arrest affidavit, the AAO finds that the applicant's conviction under Florida Statutes § 784.021(a) is a violent crime that renders him subject to the heightened discretion standard of 8 C.F.R. § 212.7(d).

Accordingly, the applicant must show that "extraordinary circumstances" warrant approval of the waiver. 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 will consider whether the applicant has "clearly demonstrate[d] that the denial of . . . admission as an immigrant would result in exceptional and extremely unusual hardship." *Id.*

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). Since the applicant is subject to 8 C.F.R. § 212.7(d), he must meet the higher standard of exceptional and extremely

unusual hardship. Therefore, the AAO will, at the outset, determine whether the applicant meets this standard.

In *Matter of Monreal-Aguinaga*, 23 I& N Dec. 56, 62 (BIA 2001), the BIA 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. *Id.* at 61.

The BIA stated that in assessing exceptional and extremely unusual hardship, it would be useful to view the factors considered in determining extreme hardship. *Id.* 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. These 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 upon the qualifying relatives; 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-Aguinaga*, 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 63-4.

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 in this case. *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.").

In regards to separation from his qualifying relatives, the applicant indicates on appeal that his parents will experience psychological hardships if he is denied admission into the United States. In support of his assertions, the applicant submitted psychological evaluations for his LPR father and mother. With regards to the applicant's father, the record includes a psychological evaluation dated August 25, 2009, prepared by [redacted] which indicates that the applicant's father is anxious about his son's possible deportation. After conducting a clinical profile of the applicant's father, [redacted] diagnosed him with "anxiety features" and concluded that he will suffer "severe emotional distress if his son were to be deported." Though we recognize that the applicant's father is experiencing anxiety, the psychological evaluation indicates that the applicant's father displayed adequate levels of mood and affect, and that his level of anxiety is within normal limits. Further, [redacted] mentions that there were no signs of depression and that it is unlikely that the

applicant's father suffers from intense symptoms of uneasiness, worry, or tension. described the applicant's father as confident, friendly, and assertive.

With regard to the asserted psychological difficulties to the applicant's mother if her son is denied admission, the record contains a psychological evaluation prepared by on August 21, 2009. indicates in his evaluation that the applicant's mother becomes emotional and breaks down when the prospect of her son's deportation is mentioned. The evaluation mentions that the applicant's mother feels discouraged, defeated, and burdened by problems. attributes these symptoms to the "anguish she is suffering because of her son." According to the applicant's mother is also experiencing anxiety and tensions. diagnosed the applicant's mother with anxiety, depression, and reduced self-esteem. He concludes that these symptoms are related to the hopelessness she feels regarding the outcome of the applicant's immigration proceedings. Though we recognize that the applicant's mother is experiencing anxiety and depression related to her son's immigration problems, the evaluation also indicates that the applicant's mother cognitive processing appears intact, thought recollection was average, and there was no evidence of delusions, hallucinatory experiences, or other distortions. She was also "motivated, extremely cooperative, and focused on an accurate representation of herself." noted that the applicant's mother "was more interested in creating an accurate impression rather than concern about revealing personal information."

conveys in his evaluations of the applicant's parents that his conclusions are derived from an interview lasting one-and-a-half hours and a psychological testing which was approximately five-and-a-half hours in length for each parent. There is no evidence in the record indicating that the applicant's parents were treated for anxiety and/or depression related symptoms caused by their son's immigration problems prior to the visit scheduled by their former immigration attorney with There is no indication of past mental health issues or heightened susceptibility to mental health disorders. Here, the AAO recognizes the significance of anxiety and depression to the applicant's parents resulting from the prospect of family separation as a hardship factor, but concludes that the asserted psychological difficulties, as demonstrated by the evidence in the record, are the common results of removal or inadmissibility and do not rise to the level of exceptional and extremely unusual hardship. *See generally Matter of Monreal-Aguinaga*, 23 I& N Dec. at 62 (hardship that "must be 'substantially' beyond the ordinary hardship that would be expected when a close family member leaves this country.").

With regard to medical difficulties, the record contains a letter prepared by dated November 22, 2010, indicating that the applicant's father has been diagnosed with hypertension, obesity and diabetes. However, while the letters demonstrate that the applicant's father suffers from various health problems, they do not support the applicant's assertions that separation would have "a devastating effect on his current [] conditions." There is no evidence in the record establishing that the applicant's father depends upon him for medical appointments, treatment, or medical care. Neither does the record contain any documentary evidence that proves the applicant's father is dependent on the applicant's income or that he plays a role in providing whatever healthcare assistance he may require, if any.

Thus, when the evidence of hardship in the record is considered collectively, we find that the applicant has not shown that his parents will endure "exceptional and extremely unusual hardship" if they remained in the United States without him. Accordingly, the applicant has not demonstrated that the psychological, medical, and emotional hardship to his qualifying relatives meets the "exceptional and extremely unusual hardship" standard as required in 8 C.F.R. § 212.7(d).

With regard to joining the applicant to live in South Africa, the asserted hardships to the applicant's father are his lack of ties to South Africa, his close familial ties in the United States, concern about his personal safety and that of the applicant, and not being able to obtain employment due to age. The applicant contends that his father's relocation to South Africa would divide his family, given that his mother and three siblings reside in the United States. Though the AAO recognizes that there is a close relationship between the applicant, his siblings and their parents, and that they will experience emotional hardship as a result of separation from him, we find that the applicant has not fully demonstrated that their emotional hardship would be "exceptional and extremely unusual" if his parents join him in South Africa.

Additionally, it is noted that the conditions in the country to which the qualifying relative would relocate must be assessed in the exceptional and extremely unusual determination. The applicant states that his father owns a home in the United States and that his father has invested financially into his company, The applicant states that relocation to South Africa would mean that his father would have "to start over at the age of 60 in a country with adverse economic conditions." The applicant also contends that South Africa is a country characterized by high incidents of violent crime and that relocation to that country would mean that his parents would be exposed to alarming violence. The applicant submitted into the record the U.S. Department of State Country Specific Information: South Africa for 2009, which conveys that though the vast majority of travelers complete their travels to South Africa without problems, criminal activity is prevalent. However, the report also mentions that the South African government has in place "strong anti-crime initiatives" designed to combat and reduce criminal activity. Additionally, we note that other than generalized assertions regarding criminal activity, the applicant does not specify the risks or incidents of criminal activity in the area where they would be residing in South Africa. Neither has he demonstrated that he and his parents are likely targets for violence, robbery, or kidnapping, which is the principle cause of his father's anxiety. Further, the record evidence does not convey that the applicant or his parents were ever targeted for acts of violence when they resided in South Africa. Moreover, with regard to concern about his parents' financial circumstances upon relocation, no evidence has been provided to show that the applicant and his father would be unable to find employment in South Africa, or that his parents would not be able to maintain a residence there with the proceeds and earnings from his father's investment company. Thus, when all of the stated hardship factors and their supporting evidence are considered collectively, we find that the applicant has not shown that the hardship to his parents, as a result of living in South Africa, is "exceptional and extremely unusual hardship." Consequently, the applicant has not demonstrated that the hardship to his qualifying relatives meets the "exceptional and extremely unusual hardship" standard as required in 8 C.F.R. § 212.7(d). We find that there are not extraordinary circumstances warranting a favorable exercise of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(h) of the Act, the burden of establishing that the application merits approval 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.