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: JAN 1 1 2013 OFFICE: NEWARK, NJ FILE: [redacted]

IN RE: [redacted]

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

ON BEHALF OF APPLICANT:

[redacted]

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 any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Michael Shumway

for Ron Rosenberg
Acting Chief, Administrative Appeals Office

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

The applicant is a native and citizen of the United Kingdom 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 and section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for having obtained an immigration benefit through fraud or the willful misrepresentation of a material fact. The applicant is the spouse and father of U.S. citizens. He seeks waivers of inadmissibility pursuant to sections 212(h) and (i) of the Act, 8 U.S.C. §§ 1182(h) and (i), in order to remain in the United States.

The Field Office Director concluded that the applicant had failed to establish that the bar to his admission would result in extreme hardship for a qualifying relative and denied the Form I-601, Application for Waiver of Grounds of Inadmissibility, accordingly. She further found that the applicant was ineligible for a favorable exercise of discretion. *Field Office Director's Decision*, dated September 29, 2011.

On appeal, counsel asserts that the Field Office Director failed to consider the hardship factors in the aggregate and, therefore, erred in finding that the applicant's spouse and children would not suffer extreme hardship. Counsel also maintains that the Field Office Director erred in determining that the applicant did not merit a favorable exercise of discretion. *Form I-290B, Notice of Appeal or Motion*, dated October 17, 2011.

The record of evidence includes, but is not limited to: counsel's briefs; statements from the applicant, his spouse, his mother-in-law, his father-in-law and his sisters-in-law; medical documentation relating to the applicant's spouse and mother-in-law; a psychological evaluation of the applicant's spouse; a letter relating to the employment of the applicant's mother-in-law; a printout of online material on immigrating to the United Kingdom; childcare costs at Kirby Children's Center; tax records; bank statements; country conditions information for the United Kingdom; statements of support from friends of the applicant; and documentation of the applicant's criminal history. 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 part:

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

A waiver of section 212(a)(2)(A)(i)(I) inadmissibility is provided by section 212(h) of the Act, which provides:

> (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 . . . .

In the present case, the record reflects that, on September 23, 1992, the applicant was convicted in Sheffield Magistrates Court (United Kingdom) of Theft from Vehicle for which he was fined £50.[1] On June 4, 1996, the applicant pled guilty in Chesterfield Magistrates Court to Using Threatening, Abusive, Insulting Words or Behavior with Intent to Cause Fear or Provocation of Violence and was fined £200 and required to pay costs of £45. On January 5, 2005, the applicant pled guilty to Destroy or Damage Property (Value of Damage £5,000 or Less Offence Against Criminal Damage Act 1971 Only) in Leeds District Magistrates Court. He was ordered to pay costs of £49 and compensation in the amount of £600.

While the AAO notes the applicant's convictions, the record contain no documentation identifying the specific sections or subsections of British law under which he was convicted.[2] However, as the applicant has not contested his inadmissibility under section 212(a)(2)(A)(i)(I) of the Act, and the record does not contain evidence to show that finding to be erroneous, we will not disturb the inadmissibility determination. Also we find that the applicant is also inadmissible pursuant to section 212(a)(6)(C)(i) of the Act. As the hardship requirement to waive a section 212(a)(6)(C)(i) inadmissibility is more restrictive with regards to which relatives may be considered qualifying family members, demonstrating statutory eligibility for a waiver under section 212(i) of the Act also serves to establish eligibility under section 212(a)(2)(A)(i)(I) of the Act.[3] Therefore if the applicant in the present case establishes extreme hardship for a section 212(i) waiver, which limits qualifying relatives to U.S. citizen or lawful permanent resident spouses or parents, he will also establish extreme hardship for purposes of a waiver of inadmissibility under section 212(a)(2)(A)(i)(I) of the Act.

Section 212(a)(6)(C) states in pertinent part:

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[1] On this date, the applicant was also convicted of Driving a Motor Vehicle with Excess Alcohol, for which he was fined £250 and disqualified from driving for 12 months, with his license "endorsed" with penalty points.

[2] The applicant submitted a copy of a Convictions Summary from the British National Identification Service listing his convictions and nonconvictions in the United Kingdom. While this document covers the applicant's criminal history, it provides descriptive statements of the applicant's offenses, rather than the specific sections/subsections of statutes under which he was convicted. No other documentation in the record relates to the applicant's offenses.

[3] We note, however, that if the applicant's conviction for Using Threatening, Abusive, Insulting Words or Behavior with Intent to Cause Fear or Provocation of Violence is a crime involving moral turpitude, it could also be deemed a violent or dangerous crime for purposes of discretion, requiring that the applicant meet the requirements of 8 C.F.R. § 212.7(d). Nevertheless, as we dismiss the appeal on the basis that the applicant has not demonstrated extreme hardship to a qualifying relative under section 212(i) of the Act, it is not necessary to address this further.

(i) **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 chapter is inadmissible.

The Field Office Director found the applicant's failure to disclose his criminal history on the Form I-94W, Visa Waiver, he used to enter the United States on December 21, 2006, and the fact that he was an intending immigrant at the time of this entry to bar his admission to the United States pursuant to section 212(a)(6)(C)(i) of the Act.

In an August 25, 2011 statement, the applicant asserts that his failure to respond affirmatively to the question on the Form I-94W asking about arrests or convictions for crimes involving moral turpitude was not intended to defraud or misrepresent. He maintains that when he answered no to the question, he had no knowledge of what offenses were crimes involving moral turpitude and that his misrepresentation was, therefore, not willful. The applicant does not, however, respond to the Field Office Director's finding that he was an intending immigrant at the time of his December 21, 2006 entry under the Visa Waiver Program.

Even were we to find that the applicant did not willfully misrepresented a material fact when he failed to disclose his criminal record on the Form I-94W, he would still be subject to section 212(a)(6)(C)(i) of the Act for having been an intending immigrant at the time of his December 2006 admission under the Visa Waiver Program.

With regard to immigrant intent, the AAO notes that the Department of State (DOS) has developed the 30/60-day rule which applies when, "an alien states on his or her application for a B-2 visa, or informs an immigration officer at the port of entry, that the purpose of his or her visit is tourism, or to visit relatives, etc., and then violates such status by marrying and taking up permanent residence." *DOS Foreign Affairs Manual*, § 40.63 N4.7-1(3). Under this rule, if an alien violates his or her nonimmigrant status in a manner described in 9 FAM 40.63 N4.7-1 within 30 days of entry, a consular officer may presume the applicant misrepresented his or her intention in seeking a visa or entry. 9 FAM 40.63 N4.7-2. Although we are not bound by the Foreign Affairs Manual and do not find its language to cover the circumstances of the present case, we, nevertheless, find its analysis of the type of actions that constitute proof of immigrant intent to be useful in considering the record before us.

A review of this record finds August 25, 2011 statements from the applicant and his spouse that indicate that his decision to remain in the United States was spontaneous, made after his December 21, 2006 nonimmigrant admission. In her statement, the applicant's spouse asserts that it was not until a couple of months after the applicant's December arrival that he surprised her with the announcement that he intended to remain with her in the United States. In his statement, the applicant maintains that it was when he visited his spouse for a second time in December 2006, that he realized that, after spending time with her, "[he] could not live without her."

The record, however, contains a Form I-129F, Petition for Alien Fiancée, submitted on behalf of the applicant by his spouse. The petition is dated December 14, 2006 and was received by United States Citizenship and Immigration Services (USCIS) on the date of the applicant's entry to the United States, December 21, 2006. The record also includes a Form G-325A, Biographic

Information, supporting the Form I-129F, which was signed by the applicant on October 1, 2006, during his first visit to the United States, which lasted from September 27, to October 4, 2006. We find this evidence to demonstrate that, contrary to their August 25, 2011 statements, the applicant and his spouse had made the decision to marry and live in the United States at the time of his first visit to the United States.

In the absence of an alternate explanation for the applicant's failure to abide by the terms of his nonimmigrant admission, the AAO finds the record to demonstrate that, at the time he entered the United States under the Visa Waiver Program on December 21, 2006, the applicant was not coming for a 90-day visit but to live with the woman he was planning to marry. Accordingly, he is inadmissible to the United States under section 212(a)(6)(C)(i) of the Act for having obtained an immigration benefit through the willful misrepresentation of a material fact.

Section 212(i) of the Act provides that:

> (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien 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 Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

A waiver of inadmissibility under section 212(i) of the Act is dependent on a showing that the bar to admission would result in extreme hardship for a qualifying relative, which includes the U.S. citizen or lawfully resident spouse or parent of the applicant. Hardship to the applicant or other family members will be considered only insofar as it results in hardship to a qualifying relative, which, in the present case, is the applicant's spouse. If extreme hardship to a qualifying relative is established, the applicant is statutorily eligible for a waiver, and USCIS then assesses whether a favorable exercise of discretion is warranted. *See Matter of Mendez,* 21 I&N Dec. 296, 301 (BIA 1996).

Extreme hardship is "not a definable term of fixed and inflexible content or meaning," but "necessarily depends upon the facts and circumstances peculiar to each case." *Matter of Hwang*, 10 I&N Dec. 448, 451 (BIA 1964). In *Matter of Cervantes-Gonzalez,* the Board of Immigration Appeals (BIA) provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship to a qualifying relative. 22 I&N Dec. 560, 565 (BIA 1999). The factors include the presence of a lawful permanent resident or United States citizen spouse or parent in this country; the qualifying relative's family ties outside the United States; the conditions in the country or countries to which the qualifying relative would relocate and the extent of the qualifying relative's ties in such countries; the financial impact of departure from this country; and significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate. *Id.* 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 exclusive. *Id.* at 566.

The BIA has also held that the common or typical results of removal and inadmissibility do not constitute extreme hardship, and has listed certain individual hardship factors considered common rather than extreme. These factors include: economic disadvantage, loss of current employment, inability to maintain one's present standard of living, inability to pursue a chosen profession, separation from family members, severing community ties, cultural readjustment after living in the United States for many years, cultural adjustment of qualifying relatives who have never lived outside the United States, inferior economic and educational opportunities in the foreign country, or inferior medical facilities in the foreign country. *See generally Matter of Cervantes-Gonzalez*, 22 I&N Dec. at 568; *Matter of Pilch*, 21 I&N Dec. 627, 632-33 (BIA 1996); *Matter of Ige*, 20 I&N Dec. 880, 883 (BIA 1994); *Matter of Ngai*, 19 I&N Dec. 245, 246-47 (Comm'r 1984); *Matter of Kim*, 15 I&N Dec. 88, 89-90 (BIA 1974); *Matter of Shaughnessy*, 12 I&N Dec. 810, 813 (BIA 1968).

However, though hardships may not be extreme when considered abstractly or individually, the BIA has made it clear that "[r]elevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists." *Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996) (quoting *Matter of Ige*, 20 I&N Dec. at 882). The adjudicator "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." *Id.*

The actual hardship associated with an abstract hardship factor such as family separation, economic disadvantage, cultural readjustment, etc., differs in nature and severity depending on the unique circumstances of each case, as does the cumulative hardship a qualifying relative experiences as a result of aggregated individual hardships. *See, e.g., Matter of Bing Chih Kao and Mei Tsui Lin*, 23 I&N Dec. 45, 51 (BIA 2001) (distinguishing *Matter of Pilch* regarding hardship faced by qualifying relatives on the basis of variations in the length of residence in the United States and the ability to speak the language of the country to which they would relocate). For example, though family separation has been found to be a common result of inadmissibility or removal, separation from family living in the United States can also be the most important single hardship factor in considering hardship in the aggregate. *See Salcido-Salcido*, 138 F.3d at 1293 (quoting *Contreras-Buenfil v. INS*, 712 F.2d 401, 403 (9th Cir. 1983)); *but see Matter of Ngai*, 19 I&N Dec. at 247 (separation of spouse and children from applicant not extreme hardship due to conflicting evidence in the record and because applicant and spouse had been voluntarily separated from one another for 28 years). Therefore, we consider the totality of the circumstances in determining whether denial of admission would result in extreme hardship to a qualifying relative.

The AAO now turns to the question of whether the applicant in the present case has established that his U.S. citizen spouse would experience extreme hardship as a result of his inadmissibility.

On appeal, counsel states that the applicant's spouse cannot imagine life without the applicant and would experience significant emotional hardship if he is removed from the United States. Counsel asserts that the applicant's spouse is currently suffering from severe post-partum depression for which she is taking medication and that the additional stress of her family's uncertain future has exacerbated her condition. Counsel also contends that the applicant's spouse's "already frail condition" might, when combined with the possible negative outcome of her husband's case, be fatal. She further asserts that the applicant and his two older children share a unique, close bond as

he was initially their primary caregiver and that separation would, therefore, be devastating for them.

Counsel also maintains that the applicant's spouse and children would experience financial hardship if he is not allowed to remain in the United States. She states that the applicant owns his own construction business and is the family's only breadwinner since his spouse lost her job in 2010. She asserts that the applicant would not be able to financially assist his family from the United Kingdom as, having been out of the British workforce for several years, he would not be able to obtain employment. Counsel also contends that the construction business in the United Kingdom is "economically stunted" and that the applicant would not be able to use the power tools he has acquired in the United States since the voltage in the United Kingdom is different. Counsel further asserts that the applicant's spouse would not be able to return to work in the applicant's absence as she is now the mother of three young children. Counsel maintains that even if the applicant's spouse were able to find work, she would not know where to find childcare and would not be able to afford it.

The applicant's spouse, in her August 25, 2011 statement, asserts that after the birth of her second child, she was terminated from her employment. She states that she has been out of work since January 2010 and that finding employment in the same field would be a struggle, especially since she was fired from her last job. The applicant's spouse further contends that as she now has three young children for whom she must care, she cannot return to work and does not know how she would support herself and her children in the applicant's absence.

In her statement, the applicant's spouse also indicates that her emotional health is fragile. She states that during her freshman year in college, she was raped by her then boyfriend and thereafter did not have a healthy relationship with men until she met the applicant. She further reports that she is suffering from post-partum depression following the birth of her third child and is taking Lexapro. The applicant's spouse indicates that the applicant is very understanding and is the "brightness" in her life when things seem dark. She maintains that she would not be mentally and emotionally capable of coping if she were separated from the applicant and fears that she would return to "that time of how I felt after I had been raped."

The applicant's spouse also asserts that the applicant's removal would have a significant negative impact on her children. She states that they have a very close relationship with the applicant since he was the parent who initially stayed home to care for them. The applicant's spouse indicates that she is particularly fearful of the emotional impact that separation would have on her older son as it may manifest itself in depressive behavior.

Affidavits from the applicant's sisters-in-law, dated August 21, 2011 and August 23, 2011, state that the applicant's removal would have a devastating impact of their family. The applicant's sister-in-law [redacted] asserts that the applicant's removal would be devastating for the entire family, but particularly for his children and her mother. The applicant's sister-in-law [redacted] states that losing the applicant would place her youngest sister, her nephews and niece, and her mother under great stress. She also maintains that the applicant would not be able to find employment immediately upon return to the United Kingdom and that his family would not be able to provide him with financial assistance. As a result, she asserts, her sister would become a single parent, responsible for rearing and providing for three children, with only an aging mother who

holds a full-time job to assist her. While indicates that she, and their mother would help the applicant's spouse to the extent possible, she reports that they all work several jobs and "some" are attending school. She states that she has educational debts and that her ability to help her sister financially would be limited.

In support of the preceding claims, the record contains an August 19, 2011 psychological evaluation of the applicant's spouse prepared by clinical psychologist . indicates that she conducted an assessment of the applicant's spouse over a period of two days and also administered a series of psychological tests, including the Beck Depression Inventory, the Beck Anxiety Inventory, the Perceived Stress Scale, the Beck Scale for Suicidal Ideation and The Resiliency Scale. notes the assault suffered by the applicant's spouse during her first year of college and indicates that the applicant's spouse's reporting of the event and its aftermath is consistent with that of individuals who meet the criteria for acute stress disorder. She also states that it is her opinion that the applicant's spouse experienced a significant post-traumatic reaction to the assault. further reports that the applicant's spouse has been in therapy on an intermittent basis and is on medication to manage the symptoms of the post-partum depression she is experiencing following the birth of her third child, a condition from which she has previously suffered. She notes that she found the applicant's spouse to be despondent and overwhelmed, and indicates that the applicant's spouse informed her that she has noticed a significant decline in her energy, her motivation, and her ability to pay attention and tolerate stress.

further reports that the psychological tests she administered to the applicant's spouse suggest that she is experiencing a moderate level of emotional discomfort and depression, and clinically significant levels of anxiety. She states that the applicant's spouse's score on The Resiliency Scale was low, suggesting that she does not feel confident in managing stressful situations on her own, and that the results of the Perceived Stress Scale suggest that the applicant's spouse is susceptible to experiencing aggravated symptomatology and extreme psychological hardship should she be exposed to additional psychosocial stressors. Dr. Madrid's evaluation concludes that the applicant's spouse is showing shows signs of moderate depression and anticipatory anxiety, which are interfering with her ability to be happy and to plan for the future, but does not find her symptoms, although clinically significant, to meet diagnostic criteria. I . indicates, however, that she finds the applicant's spouse to be psychologically vulnerable and "at the utmost risk for developing significant symptomology" given her distress over the applicant's immigration situation and the additional stress of being the mother of three young children, one of them a newborn.

Further medical evidence relating to the applicant's spouse is provided by an August 25, 2011 statement from who indicates that he is providing the applicant's spouse with post-partum care, that she is currently suffering from severe post-partum depression and that she previously experienced post-partum depression in 2009. He states that he has prescribed Lexapro for the applicant's spouse and that he advised her to seek the psychiatric evaluation that resulted in her evaluation by who, he states, will continue to treat the applicant's spouse for depression. Medical notes establish that the applicant's spouse saw on August 19, 2011, at which time, he found her to be suffering from Major Depressive Disorder, Mild, prescribed medication and discussed mental health treatment.

As proof of the family's financial obligations, the record contains an expense sheet for the applicant and his spouse, which indicates they face monthly financial obligations of approximately $7,000. The listing indicates that, each month, the applicant and his spouse pay $330 in daycare, $2,000 in rent to the applicant's spouse's mother; $2,270.33 for health insurance; $1,156.10 in car payments and insurance (adjusted to reflect a $61.20 monthly car insurance payment, rather than the $808.80 listed on the expense sheet); $200-250 for telephone charges; $450-500 in credit card payments; $300 on the applicant's spouse's loan; and $218.51 for storage. The applicant has submitted documentation in support of the claimed expenses, including a statement from his mother-in-law, an email from his spouse's prior employer and copies of billing statements.

Also included in the record is a printout of the online 2010 Human Rights Report: United Kingdom, issued by the U.S. Department of State on April 8, 2011, which provides an overview of human rights conditions in the United Kingdom. The report indicates that, in 2010, the national minimum wage, which ranged from £3.57 to £ 5.93 per hour, did not provide a decent standard of living for a worker and his or her family, but that government benefits, including free universal access to the National Health Service, "filled the gap."

Having reviewed the record before us, the AAO does not find it to contain sufficient evidence to establish that the hardship that would be experienced by the applicant's spouse upon separation would exceed that normally experienced when families are separated as a result of removal or exclusion. In reaching this conclusion, we have taken particular note of I evaluation of the applicant's spouse in which she found the applicant's spouse to present clinically significant symptoms of anxiety and depression, but concluded that these symptoms, as of the date of her evaluation, did not meet the diagnostic criteria necessary for a mental health diagnosis or allow her to reliably predict the emotional impacts of separation on the applicant's spouse. We acknowledge statements that the applicant's spouse is "at risk" for developing significant symptomology and is psychologically vulnerable and distressed, and that added stressors and continued feelings of helplessness may trigger a major depressive episode or postpartum depression. We also recognize that the applicant's spouse is currently experiencing post-partum depression, but note that this diagnosis was known to at the time she reached her conclusions regarding the applicant's spouse's mental state. In that reaches no mental health diagnosis or conclusions regarding the likely impacts of the applicant's removal on his spouse's emotional or mental health, the AAO finds the submitted evaluation to be of limited use in determining extreme hardship with respect to the applicant's spouse.

We further find the record to lack documentation of the impact that the applicant's removal would have on his children's mental or emotional health or how any emotional hardship they might suffer as a result of their separation from their father would affect their mother, the only qualifying relative in this proceeding. Accordingly, it does not support the claims of emotional hardship made with respect to the applicant's children. Going on record without supporting documentation is not sufficient to meet the applicant's burden of proof in this proceeding. *See 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)).

There is also insufficient evidence to establish the extent of the financial hardship that would be created by the applicant's removal. While the AAO notes the list of financial obligations provided by the applicant, we do not find the record to demonstrate that his spouse would face all of these

expenses in his absence. Moreover, it is not clear from the record that the applicant's spouse would have no way of meeting her financial obligations other than seeking employment, which the AAO agrees would be problematic in light of the ages of her three children.

The submitted list of expenses indicates that the applicant and his spouse currently pay $2,000 in monthly rent to his mother-in-law with whom they live. Although the applicant's mother-in-law has submitted a statement indicating that she receives $2,000 each month from the applicant and her daughter, there is no documentation of these payments in the record, e.g., cancelled checks or bank statements. The AAO also finds the record to lack the documentary evidence necessary to establish the $2,270.33 monthly health insurance payment included on the expense list. While we find the record to contain an email from the applicant's spouse's former employer informing her that COBRA coverage for her family will cost $2,270.33 a month, the email does not establish that the applicant and his spouse are paying for such coverage and no other documentation, e.g., cancelled checks or billing statements, of this significant expense has been submitted. Accordingly, we do not find the record to establish the two major financial obligations that the applicant claims would face his spouse in his absence.

The record also fails to demonstrate that the applicant's spouse would have no financial resources available to her, other than what she might earn from employment. The AAO notes that no evidence in the record establishes that the applicant's spouse's mother, with whom the applicant's spouse and children live, would be unable to provide her daughter and grandchildren with financial assistance. The record contains a 2009 tax return for the applicant's spouse's mother that establishes her annual income as being $106,555 and no evidence in the record indicates that her monthly expenses, including any mortgage on her home, would prevent her from helping her daughter meet her financial obligations in the applicant's absence. We also observe that the record reflects that the applicant's spouse and her father have a close relationship and, again, find no indication that he would be unable or unwilling to provide her with financial assistance. The record also fails to demonstrate that the applicant would not be able to financially assist his spouse from outside the United States. Although counsel and the applicant's spouse claim that the applicant would find it difficult to obtain employment in the United Kingdom, the record offers no country conditions information in support of this assertion. The only country conditions information submitted by the applicant, the 2010 Human Rights Report: United Kingdom issued by the U.S. Department of State, establishes neither the state of the British economy, nor the condition of the British construction industry. The evidence is general, and is inadequate to establish the specific conditions the applicant's spouse will encounter in the United Kingdom. Accordingly, we do not find the record to demonstrate the financial impact of the applicant's removal on his spouse or his children.

Therefore, based on our review of the record, the AAO cannot conclude that the applicant's spouse would experience extreme hardship if the waiver application is denied and she and her children remain in the United States.

On appeal, counsel states that relocation to the United Kingdom would require the applicant's spouse to move to a country to which she would have no ties other than the applicant and to leave behind her network of family and friends in the United States. She notes that the applicant's spouse was born in the United States and has lived in the United States for more than 35 years; that her entire family resides in the United States; that she lives with her mother and that her two

sisters, whom she sees at least once a week, live only a short distance away. Counsel also maintains that the applicant's spouse would not be able to find employment in the United Kingdom as she has no contacts and was fired from her last job.

Counsel further contends that the applicant's spouse suffers from an overwhelming sense of anxiety at thought of leaving her mother in the United States. The applicant's spouse's mother, counsel states, is 68 years od, suffers from coronary artery disease and depression, and has had two heart attacks. Counsel asserts that the applicant's spouse worries that if she and her children move to the United Kingdom, her mother would suffer a third heart attack, as both her prior heart attacks followed highly emotional events. Counsel also indicates that the applicant's spouse's children are her mother's only grandchildren and that her mother is particularly close to them. She further maintains that the applicant's children would suffer emotionally if they were separated from their grandmother and other members of their mother's family.

The applicant's spouse in her August 25, 2011 statement maintains that her mother has been deteriorating emotionally ever since her divorce from the applicant's spouse's father, and that she suffers from severe depression, has coronary artery disease, and has had two heart attacks. She states that, as the baby of the family, she has a very close relationship with her mother and that she would never forgive herself if she relocates to the United Kingdom because her mother would have another heart attack. The applicant's spouse asserts that moving to the United Kingdom would not be an option for her mother because her mother's doctors and life are in the United States. Although the applicant's spouse acknowledges that her two sisters live in New Jersey and her brother in California, she maintains that they would not be able to care for her mother.

The applicant's spouse also contends that if she relocated to the United Kingdom, that her life and her children's lives would be turned upside down, that she would feel completely helpless as she is unused to life in the United Kingdom, and that her only family and friends are in the United States. The applicant's spouse further states that she fears that the applicant would not be able to obtain employment in the United Kingdom as he has been out of the British workforce for several years and would not have the funds or tools required to start his own business. The applicant's spouse further asserts that she has no business contacts in the United Kingdom and, therefore, doubts she would be able to find employment comparable to that she had in the United States. Even if employment were available to her, the applicant's spouse states, she would not be able to work, as she would have no one to care for her three children.

In his August 25, 2011 statement, the applicant asserts that he does not know where he and his family would live if they were to relocate to the United Kingdom. He reports that his mother and stepfather are elderly, his stepfather has prostate cancer, that neither is employed and that they are not able to offer him any financial assistance. While the applicant indicates that he also has two sisters living in the United Kingdom, he states that neither is financially secure enough to provide him with any help. The applicant also states that he does not know if he would be able to obtain employment in Sheffield, where he previously lived, and would probably have to join a construction company and travel, the type of employment he held prior to coming to the United States. He further indicates that it is unlikely that his spouse would be able to obtain employment in the United Kingdom.

The applicant's mother-in-law, in an August 9, 2011 statement, asserts that prior to the applicant and her daughter coming to live with her, she was existing, but was not living. She states that if the applicant and her daughter move to the United Kingdom with their children, she will not recover as they are her life, her reason for getting up in the morning. In their affidavits, the applicant's sisters-in-law, , maintain that their sister's relocation would have a significant negative impact on their mother. states that her mother has been reborn by having the applicant and her youngest daughter live with her and that if that should change, it would "kill" her mother. asserts that her mother has battled depression most of her life and that she was "really helped out" by the applicant's and her youngest sister's move to New Jersey. She states that the applicant and her sister keep an eye on her mother's health and that the applicant has also maintained and updated her mother's home. asserts that her sister cannot move to the United Kingdom with the applicant at any point in the near future as it would be too expensive.

In support of the preceding claims, the record contains a July 19, 2011 letter from . that establishes the applicant's mother-in-law has coronary artery disease with a history of myocardial infarction and has undergone the stenting of her left anterior descending coronary artery. He indicates that he will continue to see the applicant's mother-in-law on a periodic basis, following up on her reports of coughing and heaviness in her chest.

As previously discussed, the record also includes a printout of the online 2010 Human Rights Report: United Kingdom, which provides an overview of human rights in the United Kingdom. The report indicates that in 2010, the national minimum wage, which ranged from £3.57 to £5.93 per hour, did not provide a decent standard of living for a worker and his or her family, but that government benefits, including free universal access to the National Health Service, "filled the gap."

The AAO further notes that the evaluation of the applicant's spouse prepared by reports that the applicant's spouse is very apprehensive about the possibility of relocating to the United Kingdom and the resulting challenges she would face, including being considered a foreigner, being separated from her U.S. family, being able to survive financially, finding a place to live, and continuing to meet the family's current financial commitments. She states that, in her opinion, the applicant's spouse would face "significant psychological deterioration" if she and the applicant relocated.

The AAO acknowledges the range of hardship claims made on behalf of the applicant's spouse and children should they relocate to the United Kingdom, but does not find the record to support them or a finding of extreme hardship.

Although the applicant's spouse is understandably apprehensive about moving to the United Kingdom, the record does not demonstrate the impact that relocation would have on her emotional or mental health. conclusion that the applicant's spouse would experience significant psychological deterioration is not further explained and the AAO is unable to determine what the significant psychological deterioration indicated by would entail and, therefore, the severity and extent of the impact that relocation would have on the applicant's spouse's mental/emotional health. We also find that no documentary evidence has been submitted in support of the assertions made regarding the effect that the applicant's spouse's relocation would

have on her mother's mental and physical health and the resulting impact on the applicant's spouse. While the record offers proof that the applicant's mother-in-law has coronary artery disease and has suffered two heart attacks, the submitted medical letter does not indicate the current state of her health or that emotional stress would be likely to result in another heart attack. The AAO also finds no documentation in the record to establish that the applicant's spouse's mother suffers from depression.

We further find no documentary support for the claim that the applicant's spouse and children would experience financial hardship if they relocate. Although the record includes country conditions information in the form of the 2010 Human Rights Report for the United Kingdom, the report offers an overview of that country's observance of human rights, rather than any insights into the British economy or its construction industry. Accordingly, it does not support counsel's claim that the construction industry in the United Kingdom is stunted or that the applicant would be unable to obtain employment that would allow him to support his family. While we note the report's conclusion that the minimum wage in the United Kingdom does not provide a decent standard of living, there is nothing in the record before us that indicates the applicant would be limited to a minimum wage employment. Accordingly, the record does not establish that relocation would result in extreme hardship for the applicant's spouse.

As the record fails to demonstrate that the applicant's inadmissibility would result in extreme hardship for a qualifying relative, he has not established eligibility for a waiver under section 212(i) of the Act. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether he merits a waiver as a matter of discretion.

In proceedings for an application for a waiver of grounds of inadmissibility under section 212(i) 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. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.