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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: LONDON, UNITED KINGDOM Date: JAN 05 2009

IN RE: [redacted]

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

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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

John F. Grissom, Acting Chief
Administrative Appeals Office

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

The applicant is a native and citizen of Nigeria and, since March 1983, also a citizen of the United Kingdom. The applicant has been found inadmissible to the United States under 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 conviction of crimes involving moral turpitude; section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year and seeking readmission within ten years of his last departure from the United States; and section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for seeking to procure admission into the United States by fraud or willful misrepresentation.

The applicant is the husband of a U.S. citizen, and the father of a U.S. citizen child. He seeks waivers of inadmissibility under sections Section 212(a)(9)(B)(v), 212(h), and 212(i) of the Act in order to reside in the United States with his family.

The Application for Waiver of Grounds of Inadmissibility (Form I-601) was denied because the FOD found that the applicant had failed to establish that the applicant's spouse would suffer hardship beyond that normally experienced as a result of a spouse's inadmissibility or removal. *Decision of the Field Office Director*, February 7, 2008.

On appeal, the applicant presents additional evidence and contends that, reviewed as whole, the entire body of the record's evidence merits approval of his application. The AAO bases its decision upon a review of the entire record and consideration of all the evidence in support of hardship.

The record establishes that the applicant has several criminal convictions. In the United Kingdom in June 1998 he was convicted of (1) one count of theft (two Master Card credit cards belonging to the Bank of Scotland, on or about February 25, 1997) in violation of section 1(1) of the Theft Act 1968; (2) one count of false accounting (providing materially false information on a Visa credit card application, on or about March 5, 1997) in violation of section 17(1)(a) of the Theft Act 1968; and (3) one count of false accounting (providing materially false information on a Visa credit card application, on or about March 5, 1997) in violation of section 17(1)(a) of the Theft Act 1968). For these convictions the court imposed three concurrent sentences of 150 hours of Community Service, and payment of £200.00 towards the cost of the prosecution. The record of proceedings also indicates that, in or around August 2003, the applicant plead *nolo contendere* to a charge of providing false information to a police officer in violation of Georgia Criminal Code section 16-10-25.

With regard to convictions of crimes involving moral turpitude, 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 –

(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime . . . is inadmissible.

Section 212(h) of the Act, the waiver section that applies to inadmissibility based upon conviction of crimes involving moral turpitude, states in pertinent part that:

(h) The Attorney General [now Secretary of Homeland Security]may, in his discretion, waive the application of subparagraphs (A)(i)(I) . . . of subsection (a)(2) . . . if-

(1)(A) [I]t is established to the satisfaction of the Attorney General that-

(i) [T]he 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 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.

The BIA and U.S. courts have found that it is the "inherent nature of the crime as defined by statute and interpreted by the courts and as limited and described by the record of conviction" and not the facts and circumstances of the particular person's case that determines whether the offense involves moral turpitude. *See, e.g., Matter of Short,* 20 I&N Dec. 136, 137 (BIA 1989); *Omagah v. Ashcroft,* 288 F.3d 254, 260 (5th Cir. 2002); *Goldeshtein v. INS,* 8 F.3d 645 (9th Cir. 1993). Neither the seriousness of the criminal offense nor the severity of the sentence imposed is determinative of whether a crime involves moral turpitude. *Matter of Serna*, 20 I&N Dec. 579, 581 (BIA 1992). . Although evil intent signifies a crime involving moral turpitude, willfulness in the commission of the crime does not, by itself, suggest that it involves moral turpitude. *Goldeshtein v. INS, supra.* Under the statute, evil intent must be explicit or implicit given the nature of the crime. *Gonzalez-Alvarado, v. INS,* 39 F.3d 245, 246 (9th Cir. 1994).

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

> [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.

The wording of the relevant parts of the Theft Act of 1968 (Theft Act) of which the applicant was convicted establishes that each of the applicant's convictions in the United Kingdom is for a crime involving moral turpitude.

Section 1(1) of the Theft Act, Theft, states:

> A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; and "thief" and "steal" shall be construed accordingly.

Section 17 of the Theft Act, False Accounting, states, in pertinent part:

> (1) Where a person dishonestly, with a view to gain for himself or another or with intent to cause loss to another,—
>
> (a) destroys, defaces, conceals or falsifies any account or any record or document made or required for any accounting purpose ; or
>
> . . . .
>
> he shall, on conviction on indictment, be liable to imprisonment for a term not exceeding seven years.

The applicant's convictions under the Theft Act qualify as crimes involving moral turpitude as an intent to defraud is implied in the section under which the applicant was convicted. *See Matter of Chouinard*, 11 I & N Dec. 839 (BIA 1966). Accordingly, the applicant is inadmissible to the United States under section 212(a)(2)(A)(i)(I) of the Act.

The record also reveals that the applicant is inadmissible due to his unlawful presence in the United States under section 212(a)(9)(B)(i)(II) of the Act and his admission and attempt to procure

admission into the United States by fraud or willful misrepresentation under section 212(a)(6)(C)(i) of the Act.

The applicant entered the United States on December 7, 1998 on a B-2 visa that authorized him to stay in the United States until May 6, 1999. He overstayed the validity of his visa, remaining in the United States until August 2003,[1] when he departed the United States, thereby triggering the unlawful presence provisions of the Act. On January 12, 2004 the applicant used his British passport to enter the United States under the visa waiver program, and remained until October 11, 2006. On October 26, 2006, the applicant again sought entry to the United States under the visa waiver program, but was refused admission. Therefore, the applicant has twice been unlawfully present in the United States, for more than four years following his 1999 entry and for approximately two and one-half years following his 2004 entry. As he is applying for admission within ten years of his last departure from the United States, he is inadmissible under section 212(a)(9)(B)(i)(II) for having been unlawfully present in the United States for more than one year.

The AAO also observes that in seeking admission to the United States under the visa waiver program, the applicant failed to acknowledge his prior criminal convictions. In both instances, the record indicates that that the applicant, in completing the Form I-94W, Nonimmigrant Visa Waiver Arrival/Departure Form, checked "no" in response to Question B: "Have you ever been arrested or convicted of an offense or crime involving moral turpitude . . . ?" Accordingly, as the applicant failed to disclose his criminal convictions in completing the Form I-94W, he is inadmissible to the United States under section 212(a)(6)(C)(i) of the Act for having willfully misrepresented a material fact in order to obtain admission to the United States.

With regard to inadmissibility based upon unlawful presence, section 212(a)(9)(B) of the Act provides:

> (B) Aliens Unlawfully Present.-
>
> (i) In general. - Any alien (other than an alien lawfully admitted for permanent residence) who-
>
> . . . .
>
> (II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States, is inadmissible.

Section 212(a)(9)(B)(v) of the Act, the waiver section that applies to inadmissibility based upon unlawful presence, provides:

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[1] The record indicates that removal proceedings were initiated against the applicant in January 2001, based upon his remaining unlawfully in the United States after the expiration of his B-2 visa. However, the record contains no removal order.

> (v) Waiver. – The Attorney General [now the Secretary of Homeland Security (Secretary)] has sole discretion to waive clause (i) in the case of an immigrant who is the spouse or son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien.

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

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

Section 212(i) of the Act, the waiver section that applies to waivers of inadmissibility for seeking to procure admission into the United States by fraud or willful misrepresentation, provides:

> 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.

As just discussed, section 212(a)(9)(B)(v) and 212(i) waivers of the bars to admission resulting from sections 212(a)(2)(A)(2) and 212(a)(9)(B)(i)(II) of the Act are dependent upon a showing that the bars impose an extreme hardship to the U.S. citizen or lawful permanent resident spouse and/or parent of the applicant. A section 212(h) waiver of the bar to admission resulting from section 212(a)(2)(A) of the Act is dependent upon a showing that the bar imposes an extreme hardship to the U.S. citizen or lawful permanent resident spouse, parent and/or child of the applicant. The AAO notes that unlike section 212(h) waiver proceedings, waiver proceedings for sections 212(a)(9)(B)(v) and 212(i) waivers do not permit consideration of hardship to the applicant's U.S. citizen or lawful permanent resident child unless it causes hardship to the applicant's spouse. As the applicant is subject to all three bars, the AAO will consider his waiver application under the more restrictive requirements of sections 212(a)(9)(B)(v) and 212(i).

The concept of extreme hardship to a qualifying relative "is not . . . fixed and inflexible," and whether extreme hardship has been established is determined based on an examination of the facts of each individual case. *Matter of Cervantes-Gonzalez,* 22 I&N Dec. 560, 565 (BIA 1999). In *Matter of Cervantes-Gonzalez*, the Board of Immigration Appeals set forth a list of non-exclusive factors relevant to determining whether an alien has established extreme hardship to a qualifying relative pursuant to section 212(i) of the Act. These factors include, with respect to the qualifying relative,

the presence of family ties to U.S. citizens or lawful permanent residents in the United States, family ties outside the United States, country conditions where the qualifying relative would relocate and family ties in that country, the financial impact of departure, and significant health conditions, particularly where there is diminished availability of medical care in the country to which the qualifying relative would relocate. *Id.* at 566. The BIA has held:

> Relevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists. In each case, the trier of fact must consider the entire range of factors concerning hardship in their totality and determine whether the combination of hardships takes the case beyond those hardships ordinarily associated with deportation. [*Matter of O-J-O-,* 21 I&N Dec. 381, 383 (BIA 1996) (citations omitted)].

U.S. court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. *See Hassan v. INS,* 927 F.2d 465, 468 (9th Cir. 1991). For example, *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), held that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship. In addition, *Perez v. INS,* 96 F.3d 390 (9th Cir. 1996), held that the common results of deportation are insufficient to prove extreme hardship and defined extreme hardship as hardship that was unusual or beyond that which would normally be expected upon deportation. *Hassan v. INS, supra,* held further that the uprooting of family and separation from friends does not necessarily amount to extreme hardship but rather represents the type of inconvenience and hardship experienced by the families of most aliens being removed.

The AAO now turns to a consideration of the relevant factors in the present case.

The AAO notes that its decision regarding hardship will be based upon the effects of the bar to admissibility upon the applicant's spouse, [redacted]), who is the qualifying relative for the purposes of sections 212(a)(9)(B)(v) and 212 (i) of the Act. Nevertheless, any adverse effects on the applicant's child will be considered to the extent that they affect [redacted]

The AAO notes that, to establish extreme hardship, the applicant must demonstrate that his wife would suffer extreme hardship whether she relocates to the United Kingdom to reside with him or remains in the United States without him. This is because [redacted] is not required to reside outside of the United States based on the denial of the applicant's waiver request.

On appeal, the applicant submits the following evidence to establish his claim that [redacted] would suffer extreme hardship if his waiver application is denied: (1) a 13-page brief prepared by [redacted]; (2) an apology signed by the applicant; (3) a character-reference letter from [redacted] London; (4) a letter from the applicant's employer, Hextech IT Support Limited, London; (5) a letter of reference for the applicant from [redacted] Assistant Professor, Department of Community and Family Medicine, Howard University Hospital, Washington, D.C.; (6) the applicant's resume; (7) a Certificate of Excellence from Microsoft, certifying that the applicant "[h]as successfully completed the requirements to be recognized as a

Microsoft Certified Professional"; (8) an article, "How to Prevent Hypertension," with Member Comments; (9) a printout of Occupational Employment and Wages information for May 2006, compiled by the U.S. Department of Labor, on the U.S. occupational category "Network and Computer Systems Administrators;" (10) documentation of [redacted]'s pregnancy that led to the birth of her daughter; (11) a letter from [redacted] of Avenir Progressive Psychiatric Services, Scottdale, Georgia; (12) a letter from [redacted], National Certified Addiction Counselor II, of Daylight Enterprises, Inc., a counseling service in Atlanta, Georgia; (13) articles entitled "Depression During Pregnancy: Frequently Asked Questions," "Postpartum Depression and the Baby Blues," and "Family Unity: The New Geography of Family Life"; (14) a letter from [redacted]'s employer, NexCen Franchise Management, Norcross, Georgia; (15) a variety of financial documents related to [redacted]'s financial situation; (16) computer printouts on [redacted] and the applicant's business plans; (17) information on terrorist threats in the United Kingdom and elsewhere outside the United States; (18) articles dealing with life in London and the United Kingdom; (19) a letter from the applicant to the AAO, dated July 7, 2008; and (20) a letter from [redacted], Pediatrix Medical Group, Atlanta, Georgia, dated June 19, 2008.

The first part of the extreme hardship analysis requires the applicant to establish extreme hardship to [redacted] if she relocates to the United Kingdom.

In her brief, [redacted] reviews her relationship with the applicant, their financial situation, and their aspirations for a future in the United States. [redacted] also states that she has excellent healthcare through her job, and believes that she would not be able to find comparable healthcare if she were to relocate to the United Kingdom. [redacted] believes that, if she joins the applicant overseas, she would have to stay home with her child because childcare would be too costly and that it would be difficult to find affordable living quarters in the United Kingdom that would be adequate for her family. [redacted] also asserts that moving to the United Kingdom would mean a major increase in the cost of living, one that would exceed her and the applicant's resources. She also notes that moving to the United Kingdom would require the "beyond depressing" chore of packing-up and selling-off "items that we have spent our lifetimes collecting," because there would not be room for them overseas.

[redacted] also relates that, if she were to relocate to the United Kingdom to be with the applicant, she would be distressed by losing her ties to the United States; by major changes in lifestyle associated with adjusting to a new culture and a greatly reduced standard of living; and by the loss of her support network of relatives and friends, who have played a major, positive role in her life to date. She also expresses fear that life outside the United States would be more dangerous due to the terrorist threat overseas.

In his letter, [redacted], the psychiatrist who evaluated [redacted] at the request of her therapist, [redacted], remarks that [redacted]'s relocation to the United Kingdom would mean the loss of "the support of the family they'll need in a two career family," shouldering the mortgage on their home in the United States "that they will not likely be able to sell without a severe financial loss," and a "markedly limited" income, given [redacted]'s reluctance to entrust her child "to the strangers in the U.K." [redacted] does not specifically address the effects that relocating to the

United Kingdom would have on [redacted] mental health, and he does not indicate that she is undergoing treatment or therapy that would not be available in the United Kingdom. [redacted] also fails to address the impact of relocation on [redacted]. Rather, she focuses on the deterioration that she has observed in [redacted] mental health since the applicant was found to be inadmissible to the United States, and she expresses her concerns about further deterioration if the applicant is not allowed back into the United States.

It is noted that the applicant asserts that [redacted] will not be able to join him in the United Kingdom "because of our daughter's doctors, based in Atlanta, GA, where she's been overseen." *Applicant's July 11, 2008 Letter to the AAO*, at 1. However, the record contains no documentary evidence that establishes that the applicant's daughter is enrolled in a particular medical treatment program in Georgia or that she would not be able to receive adequate medical care in the United Kingdom. Further, [redacted], the clinical geneticist involved in the care of the [redacted] daughter, does not indicate that relocating to the United Kingdom would be deleterious to her or complicate any issues that she faces as a child with Down syndrome.

The AAO notes [redacted]s concerns about access to adequate health care in the United Kingdom and about the affordability of childcare there. However, the record lacks substantive evidence on these issues. The record's articles and Internet postings regarding various aspects of life in the United Kingdom are indicative of the fact that relocating to the United Kingdom would naturally involve some adjustments. However, these documents do not demonstrate the actual extent of any particular hardships that relocating to the United Kingdom would generate for [redacted], nor do they indicate that [redacted]s adjustment difficulties would exceed those usually experienced by a person relocating to a foreign country. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *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)).

The AAO has also considered [redacted]s concerns about the financial consequences of relocating to the United Kingdom, including loss of income and potential losses associated with selling her house and other assets in the United States. Although [redacted] asserts that relocation would catapult her already precarious financial situation into bankruptcy and long-term credit destruction, the record fails to establish that this would be the case. The financial documents in the record indicate that [redacted] would be relinquishing a successful career and good salary if she relocates to the United Kingdom. However, the AAO notes that the applicant's letter of apology indicates that he is steadily employed in a responsible Internet Technology (IT) position in the United Kingdom. Further, the applicant's resume, his certification as Microsoft Certified Professional, and a letter from the applicant's employer indicate he has skills and experience that make him marketable in the IT sector in the United Kingdom. The AAO notes the documentary evidence submitted by the applicant to establish the high cost of living in the United Kingdom and the employment discrimination against women with children, but finds that it is limited to generalized information that does not specifically address or demonstrate its application to Mrs. [redacted] particular situation. Further, the article on cost of living in the United Kingdom indicates a significant difference between costs in "the busy major cities" and some provinces and countryside

areas. *See Article "Cost of Living in the United Kingdom,"* at 1. The AAO also notes that a substantial portion of the record's article about discrimination against women with children and women of child-bearing age discusses the prevalence of this type of discrimination in the United States. The article does not indicate that such discrimination is more prevalent in the United Kingdom than in the United States. See a*rticle, "Mothers Need Not Apply."* Therefore, the record fails to demonstrate that [redacted] and the applicant would be unable to meet their financial responsibilities from outside the United States.

The applicant's assertion that he "has nowhere to house" his wife and child "in London, UK" is acknowledged. *Applicant's July 11, 2008 Letter to the AAO*, at 1. However, this statement is not supported by documentary evidence in the record and does not, therefore, demonstrate that adequate housing for the applicant and his family is not available in the United Kingdom. *Matter of Soffici, supra.* Further, the AAO notes that, while the record's article on the cost of living in the United Kingdom observes that "the busy major cities are more appropriate for those with higher salaries and privileges," it also states that "[s]ome provinces and countryside areas can offer cheap and very affordable living conditions." *Article "Cost of Living in the United Kingdom,"* at 1. Further, the article states, "One of the nation's strengths is equal distribution of occupations between the rural and urban areas." *Id.*, at 2. These comments suggest that the applicant's housing options would not be limited to London.

Having considered the evidence before it, the AAO does not find the record to demonstrate that [redacted]'s relocation to the United Kingdom would exceed the distress and upheaval routinely experienced by a person relocating to a foreign country due to the inadmissibility of his or her spouse. In nearly every qualifying relationship, whether between husband and wife or parent and child, there is a deep level of affection, as well as emotional and social interdependence. While, in common parlance, the prospect of separation or involuntary relocation nearly always results in considerable hardship to individuals and families, in specifically limiting the availability of a waiver of inadmissibility to cases of "*extreme* hardship," Congress did not intend that a waiver be granted in every case where a qualifying relationship, and thus the familial and emotional bonds, exist. The point made in this and prior decisions on this matter is that the current state of the law, viewed from a legislative, administrative, or judicial point of view, requires that the hardship, which meets the standard in sections 212(a)(9)(B)(v) and 212 (i) of the Act, be above and beyond the normal, expected hardship involved in such cases. Accordingly, the applicant has not established that Mrs. [redacted] would suffer extreme hardship if she relocates to the United Kingdom to join the applicant.

The second part of the extreme hardship analysis requires the applicant to establish that [redacted] would suffer extreme hardship if she remains in the United States without him.

[redacted] devotes a section of her brief to the emotional effects of the applicant's bar to admission. ***Brief on Appeal*** **at 6-9.** [redacted] states that, regardless of where she would begin her account, "it all comes back to the same emotional rollercoaster that keeps going and the depression and hopelessness I feel everyday." *Brief on Appeal* at 6-9. She recounts a variety of her distressful experiences resulting from the applicant's absence, particularly during her pregnancy. She summarizes the period since the imposition of the applicant's bar to admission as "16 months of

stress, hurt, anger, pain, uncertainty, sorrow, depression, loneliness and anguish" and "an adult nightmare." *Brief on Appeal* at 7. The brief on appeal and other submissions indicate that the applicant's inadmissibility has undermined [redacted] plans for launching real estate and Internet businesses with him, has generated substantial financial difficulties for her, and has forced her to seek financial help and emotional support from relatives and friends.

In his apology, the applicant regrets that his bar to admission has caused [redacted] to experience a wide range of negative effects, which he describes as depression, sadness, financial difficulties, loneliness, bad health, loss of his companionship and care, and destruction of the couple's plans for achieving financial security by running an Internet business and working in real estate. *Applicant's Letter of Apology*, at 1.

In his letter, the psychiatrist, [redacted], states that he evaluated [redacted] "at the urging of her long term therapist, [redacted], in regard to the toll that the separation from her husband [has] had on [her] due to the immigration issues with her husband . . . ." [redacted] indicates that [redacted] had been suffering from Major Depressive Disorder prior to the applicant's inadmissibility problems but that she had "improved markedly," and "without need for medication," while consulting with [redacted]. [redacted] states, however, that the bar to admission and its associated adverse impacts upon [redacted] constitute a stressor that has caused her to regress into a condition that [redacted] describes as an Adjustment Disorder with depressed and anxious mood. [redacted] opines that the continuation of the stress upon [redacted] marriage from the constellation of problems resulting from the applicant's inadmissibility creates a risk of her relapsing to a "Major [D]epressive [D]isorder with full disruption of functioning," and also "a stress[-]induced risk to the marriage and thereby [the] child."

Writing in May 2007, [redacted] states that she has been working as [redacted] therapist since April 2005, and in her capacity as an ordained minister officiated at her marriage to the applicant in October 2006. [redacted] indicates that, prior to the imposition of the applicant's bar to admission, she had been counseling [redacted] "on fine tuning life and relationship skills," and that [redacted] was "high functioning in work and social areas" at that time. However, Reverend [redacted] indicates that she has observed a drastic change in [redacted]s mental health since the applicant was found to be inadmissible, noting that now she has a difficult time maintaining enthusiasm even for basic self-care, has lost considerable weight, does not sleep well, cannot remember to complete simple tasks, has found it difficult to work, is unable to focus on objectives to their completion, and is confused as to her next step. *Lettter of* [redacted], at 1,2. In her letter, [redacted] also notes [redacted] growing financial problems, stating that, whereas she and the applicant had been able to "maintain their assets," she now "struggles to keep the mortgage paid, borrowing money to do that at times"; and that, while her mother has provided help with food, "her family is unable and her father is unwilling, to help her with increasing debt." *Letter of* [redacted] at 2. [redacted] describes condition as "acute and worsening," and expresses her concern that, absent the applicant's returning soon to the United States, [redacted] may lose her home and future and "may need extraordinary intervention such as hospitalization." *Id.*

The record also includes a letter written by the applicant's mother in which she states that [redacted] is in serious debt, struggles daily with bills, and has difficulty keeping up the mortgage payments. This witness also notes that [redacted] is spending an immense amount on telephone calls to the applicant and on plane trips to the United Kingdom to see him.

In another letter, the applicant's brother, [redacted], states [redacted] is living in the house that she and her husband "bought together," and that he has been providing her with financial support because she and the applicant "are unable to maintain two living costs." In yet another letter, [redacted], who identifies herself as a close friend and business colleague of [redacted], observes that running two households has placed a tremendous financial burden on the couple and a strain on their marriage.

The AAO notes that the record's financial documents are consistent with the level of financial distress described by [redacted], her brother, and [redacted]

In a June 19, 2008 letter, [redacted], of Pediatrix Medical Group, Atlanta, Georgia, states that she is the clinical geneticist involved in the care of the applicant's newborn daughter and that this child suffers from Down syndrome. She notes that "studies have shown that, in children with Down syndrome, development depends crucially on the degree to which parents provide appropriate stimulation and effective support." [redacted] also cites studies that have found that fathers' emotional involvement in play with their children who have Down syndrome may lead to enhanced cognitive functioning and that mothers of children with Down syndrome appear to experience poorer mental health, and may require greater support and services to improve behavior management skills for their children and their own psychological well being.

Based upon its review of the above described documents and all of the supportive evidence in the record of proceeding, the AAO finds that the applicant has documented hardships that, in the aggregate, demonstrate that [redacted] would suffer extreme hardship if she were to remain in the United States while the applicant resides in the United Kingdom for the remainder of his period of inadmissibility.

However, as the evidence of record does not also demonstrate that [redacted] would experience extreme hardship if she relocates to the United Kingdom to reside with the applicant, the applicant has not satisfied the requirement in sections 212(a)(9)(B)(v) and 212(i) of the Act to demonstrate extreme hardship to [redacted] whether she chooses to relocate outside or to remain within the United States. In that the applicant is statutorily ineligible for relief, no purpose would be served in discussing whether he merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under sections 212(a)(9)(B)(v) and 212(i) of the Act, the burden of proving eligibility 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.