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: DEC 17 2013 Office: SPOKANE [redacted]

IN RE: Applicant: [redacted]

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

ON BEHALF OF APPLICANT:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

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

The record reflects that the applicant, a native and citizen of Mexico, was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for seeking to procure and eventually procuring admission to the United States through fraud or misrepresentation. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), to reside in the United States with her U.S. citizen father and lawful permanent resident mother.

The Field Office Director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *See Decision of the Field Office Director,* April 3, 2013.

On appeal, counsel for the applicant contends that the Field Office Director erroneously applied the extreme-hardship standard in this case and submits a legal brief and additional evidence.

The record includes, but is not limited to, the following documentation: counsel's brief in support of Form I-290B, Notice of Appeal or Motion (Form I-290B); counsel's brief in support of Form I-601; affidavits and letters from the applicant, her spouse, her parents, and other relatives; medical documentation for the applicant's parents; psychological assessments for the applicant's parents; financial documentation; country-conditions reports and articles about Mexico; and photographs. The entire record was reviewed and considered in rendering a decision on the appeal.

Section 212(a)(6)(C) of the Act provides, in pertinent part:

> (i) 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.

The record reflects that the applicant attempted to enter the United States in August 1999 using a false permanent resident alien card and was refused admission. The applicant stated that within the same month she entered the United States using a false entry document. The applicant is inadmissible for seeking to procure and procuring admission to the United States through misrepresentation of a material fact. The applicant does not contest this finding of inadmissibility.

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

> The Attorney General [now Secretary of the Department of Homeland Security (Secretary)] may, in the discretion of the [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 [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 imposes extreme hardship on a qualifying relative, which includes the U.S. citizen or lawfully resident spouse or parent of the applicant. The applicant's U.S. citizen father and lawful permanent resident mother are the only qualifying relatives in this case. Under this provision of the law, children are not deemed to be qualifying relatives. However, although children are not qualifying relatives under this statute, USCIS does consider that a child's hardship can be a factor in the determination whether a qualifying relative experiences extreme hardship. 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-Moralez,* 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 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 Board 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 Board 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 Board 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, et cetera, 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 v. INS*, 138 F.3d 1292, 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.

Counsel contends that the applicant's parents both suffer from psychological problems that will be exacerbated if they are separated from the applicant. The record includes assessments from a social worker concerning each parent. The social worker states that the applicant's father reports feeling daily anxiety, stress, and sadness; he has difficulty sleeping; his appetite fluctuates; and he has become forgetful. The social worker concludes that the applicant's father presents symptoms of major depressive disorder and generalized anxiety disorder. Concerning the applicant's mother, the social worker indicates that she reports experiencing depression and stress on a daily basis; she has difficulty sleeping, focusing, and concentrating; she feels helpless and hopeless; and she is emotional. The social worker concludes that the applicant's mother is experiencing major depressive disorder, recurrent. The assessments for both the applicant's father and the applicant's mother indicate that the emotional problems that they are facing are related to their concerns for the applicant's safety if she returns to Mexico, as well as their dependence on her for financial support and physical care.

Although the AAO is sympathetic to the family's circumstances and recognizes that the input of any health professional is respected and valuable, the record does not show that hardship to the applicant's parents, and the symptoms they are experiencing, are atypical or unique compared to others separated from an immediate family member. *See Perez v. INS*, 96 F.3d 390 (9th Cir. 1996) (holding that the common results of deportation are insufficient to prove extreme hardship and defining extreme hardship as hardship that was unusual or beyond that which would normally be expected upon deportation).

Counsel additionally claims that the applicant's parents would experience medical hardship without the applicant's care and assistance. The record shows that the applicant's father underwent prostate surgery in January 2012. Medical records also indicate that the applicant's father is being treated for high blood pressure, osteoarthritis, and benign prostatic hyperplasia. According to medical records

concerning the applicant's mother, she suffers from hypertension, hyperlipidemia, and obesity. Medical documentation in the record indicates that the applicant's father received follow-up treatment in Mexico for his prostate in July 2012, and that both of the applicant's parents received treatment at a medical facility in Mexico in 2013. A medical document dated May 6, 2013 indicates that the applicant's father again was treated for his prostate condition. The documentation for the applicant's mother, also dated May 6, 2013, indicates that in Mexico she received medical care for severe arterial hypertension, hyperlipidemia, and ocular hemorrhage. Counsel states that the applicant's parents travel to Mexico for medical treatment because of the applicant's father's health and, although they are covered by Medicare in the United States, their benefits do not cover all medical expenses; they pay less for treatment in Mexico.

Counsel also asserts that the applicant's parents will suffer financial hardship if the applicant's waiver application is not approved, and she is unable to remain in the United States. The record indicates that the applicant's father is no longer employed, and his sole income is derived from Social Security benefits, amounting to approximately $515.00 each month. The applicant's mother is also unemployed. The applicant's father states that he and his wife currently reside with the applicant and her family and that the applicant helps them not only by providing a place to live but also with most of their expenses. The applicant's mother states that the applicant gives her $40.00 or $50.00 every two weeks to assist her with personal expenses, such as clothing.

The record indicates that the applicant has six siblings residing in the United States. Counsel contends that the applicant's family relies on her to take care of their parents' day-to-day needs and that the applicant's other siblings are unable or unwilling to care for their parents. The applicant states in an affidavit that she is relatively close to her six siblings; however, she has a stronger bond with their parents and that is why they have chosen to live with her. The applicant's father states in an affidavit that of all his children, the applicant is the one that he and his wife feel closest to, and she knows them best. Her mother states in an affidavit that the applicant takes her to her doctor's appointments and takes care of her daily needs. The applicant's brothers and sisters state in their affidavits that the applicant takes care of their parents.

However, no evidence supports concluding that the applicant's parents would not be cared for by their other children in the absence of the applicant. The record lacks documentation relating to the financial circumstances of the applicant's six siblings in the United States that reflects their ability to financially support their parents. Moreover, the applicant provides no evidence regarding the occupations and work schedules of her six siblings to show they are unable to provide the type of support to their parents that the applicant provides. Although the assertions of the applicant, her parents, and siblings are relevant and have been taken into consideration, little weight can be afforded them in the absence of supporting evidence. See *Matter of Kwan*, 14 I&N Dec. 175 (BIA 1972) ("Information in an affidavit should not be disregarded simply because it appears to be hearsay; in administrative proceedings, that fact merely affects the weight to be afforded it."). Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The AAO recognizes that the applicant's parents will endure hardship as a result of separation from the applicant. However, the record lacks sufficient evidence demonstrating that the medical, financial, or other impacts of separation on the applicant's parents are, in the aggregate, above and beyond the hardships normally experienced, such that the applicant's parents would experience extreme hardship if the waiver application is denied and they are separated from the applicant.

With respect to hardship the applicant's parents would experience upon relocation to Mexico, the applicant's parents were born in Mexico and presumably are familiar with the language and customs of that country. Furthermore, the record indicates that the applicant's parent both have traveled to Mexico for medical treatment and recently spent several months there after her father's surgery.

The applicant and her parents assert that Mexico is an unsafe place to live due to poverty and violence. The record includes evidence of country conditions in Mexico, including information from the U.S. Department of State. The record indicates that the applicant and her family are from Guanajuato, Mexico. The medical reports for the applicant's parents show that the applicant's parents were treated at a medical facility in The AAO notes that the most recent travel warning on Mexico issued by the U.S. Department of State indicates that no travel advisory is in effect for the state of See *Travel Warning-Mexico, U.S. Department of State*, dated July 13, 2013.

The AAO recognizes that the applicant's parents have resided in the United States for more than 20 years, and have strong family ties in the United States. However, the evidence in the record also reflects the applicant's parents' willingness to travel to Mexico regularly and to receive medical care there. The applicant therefore has not established that her parents would suffer hardship beyond the common results of removal if they were to relocate to Mexico to reside with her.

The record, reviewed in its entirety and in light of the *Cervantes-Gonzalez* factors, cited above, does not support a finding that the applicant's U.S. citizen father and lawful permanent resident mother will face extreme hardship if the applicant is unable to reside in the United States. Rather, the record demonstrates that they will face no greater hardship than the unfortunate, but expected disruptions and difficulties arising whenever a child is removed from the United States. Although the AAO is not insensitive to the applicant's parents' situation, the record does not establish that the hardship they would face rises to the level of extreme as contemplated by statute and case law.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.