

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
20 Massachusetts Ave. N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

PUBLIC COPY

H2

FILE:

Office: LONDON

Date: SEP 10 2008

[REDACTED]  
[REDACTED]  
relates)

IN RE:

Applicant: [REDACTED]

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

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office Director, London, England, 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 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 a visa, other documentation, or admission into the United States or other benefit provided under the Act by fraud or willful misrepresentation. The applicant was further found to be inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of crimes involving moral turpitude. The applicant seeks a waiver of inadmissibility pursuant to sections 212(i) and (h) of the Act, 8 U.S.C. §§ 1182(i) and (h), in order to enter the United States and reside with his U.S. citizen wife.

The field office director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the Field Office Director*, dated December 18, 2007.

On appeal, the applicant contends that his wife will experience extreme hardship should the present waiver application be denied. *Statement from the Applicant*, dated January 10, 2008.

The record contains statements from the applicant, the applicant's wife, the applicant's sister-in-law, the applicant's step-daughters, the applicant's mother-in-law, and the applicant's mother; medical documentation for the applicant's step-daughter and mother-in-law, and; documentation relating to the applicant's criminal activities and attempted entry to the United States. The entire record was reviewed and considered in rendering this decision.

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

- (A)(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

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

- (C)(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.

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.

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

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

(1) (A) in the case of any immigrant it is established to the satisfaction of the Attorney General [Secretary] that -

- (i) . . . the activities for which the alien is inadmissible occurred more than 15 years before the date of the alien's application for a visa, admission, or adjustment of status,
- (ii) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States, and
- (iii) the alien has been rehabilitated; or

(1) (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 [now the Secretary of Homeland Security (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 . . . .

The record reflects that the applicant was convicted of multiple crimes in the United Kingdom from 1990 to 1993, including 16 theft crimes, offenses against the person, offenses against property, three fraud and related offenses, an offense in which he bit a police officer, and eight "miscellaneous" offenses. *Criminal Record Document from the United Kingdom National Identification Service*, dated February 5, 2007. Accordingly, the applicant was found inadmissible under section 212(a)(2)(A)(i)(I) of the Act. The applicant does not contest that he committed multiple crimes involving moral turpitude, and he has submitted no evidence or detailed information about his crimes to rebut that he is inadmissible under section 212(a)(2)(A)(i)(I) of the Act.

The field office director further noted that the applicant is inadmissible under section 212(a)(6)(C) of the Act for failing to advise U.S. immigration officers of his criminal history while traveling under the visa waiver program. The AAO further observes that the applicant attempted to enter the United States on June 19, 2005 to visit his wife pursuant to a B-1/B-2 visa. He was not then married, yet he intended to visit his wife

pursuant to an existing romantic relationship between them. He indicated to U.S. immigration officers that his wife was a friend of his mother's. Thus, the applicant misrepresented his true relationship to his wife. Had the applicant revealed that he intended to visit a woman with whom he had a romantic interest, immigration officers would have been able to properly question him regarding his true intent in entering the United States, specifically whether he had an immigrant intent that is not permitted in B-1/B-2 status. Accordingly, the applicant's misrepresentation was material to whether he was eligible to enter the United States in B-1 or B-2 status. This misrepresentation further supports that he is inadmissible under section 212(a)(6)(C) of the Act for seeking to procure a visa, other documentation, or admission into the United States or other benefit provided under the Act by fraud or willful misrepresentation.

The AAO has examined whether the applicant's inadmissibility under section 212(a)(2)(A)(i)(I) of the Act may be waived under section 212(h)(1)(A) of the Act, as his convictions and criminal activities occurred over 15 years ago. However, the applicant has not established that he has been rehabilitated as required by section 212(h)(1)(A)(iii) of the Act. This finding is based on the fact that the record reflects that the applicant attempted to enter the United States through misrepresentation on June 19, 2005, as discussed above.

A section 212(i) waiver of the bar to admission resulting from violation of section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship to the citizen or lawfully resident spouse or parent of the applicant. Section 212(h)(1)(B) of the Act provides that a waiver of inadmissibility is dependent first upon a showing that the bar to admission imposes an extreme hardship on an applicant's U.S. citizen or lawfully resident spouse, parent, son, or daughter. Hardship the applicant himself experiences upon deportation is irrelevant to section 212(i) or (h) waiver proceedings; the only relevant hardship in the present case is hardship suffered by the applicant's U.S. citizen wife. Once extreme hardship is established, it is but one favorable factor to be considered in the determination of whether the Secretary should exercise discretion. *See Matter of Mendez*, 21 I&N Dec. 296 (BIA 1996).

*Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565-566 (BIA 1999) provides a list of factors the Bureau of Immigration Appeals deems relevant in determining whether an alien has established extreme hardship pursuant to sections 212(i) or (h) of the Act. These factors include the presence of a lawful permanent resident or United States citizen spouse or parent in this country; the qualifying relative's family ties outside the United States; the conditions in the country or countries to which the qualifying relative would relocate and the extent of the qualifying relative's ties in such countries; the financial impact of departure from this country; 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.

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).

On appeal, the applicant states that his wife will experience significant hardship should he be prohibited from entering the United States. *Statement from the Applicant*, dated January 10, 2008. The applicant contends that his wife cannot relocate to the United Kingdom with a long-term immigration status, as he is unable to

sponsor her due to his prior receipt of public assistance. *Id.* at 1. The applicant highlights that his wife's daughter suffers from a blood disorder, and that this condition was incorrectly attributed to the applicant's wife's granddaughter in the field office director's decision. *Id.* The applicant indicates that his wife assists in the care of her mentally and physically disabled granddaughter. *Id.* at 2. The applicant explains that his wife is now suffering from severe depression which is affecting her work and financial status. *Id.*

In a prior statement, the applicant described his relationship with his wife. *Prior Statement from the Applicant*, dated July 29, 2007. He explained that they met on the internet in 2003, and that they met in person in Canada for one week in March 2005. *Id.* at 1. He stated that he later met his wife in the United States in June 2005, he proposed to her, and they married on July 1, 2005. *Id.* He provided that he returned to the United Kingdom on July 10, 2005. *Id.*

The applicant's wife stated that she has extensive ties in the United States, including three children, three grandchildren, two sisters, three brothers, and her 82-year-old mother. *Statement from Applicant's Wife*, undated. She provided that she has maintained steady employment and a residence. *Id.* at 1. She explained that she has no desire to reside in another country, and that she does not wish to be away from her family. *Id.* She stated that she assists her family members, including participating in the care of her elderly mother, her daughter, her son, and her granddaughters. *Id.* She provided that leaving her family would create hardship for them. *Id.* The applicant's wife indicated that relocating to the United Kingdom would create financial hardship for her, as she would be compelled to end her employment in the United States and incur costs associated with moving abroad. *Id.* at 1-2.

The applicant's wife indicated that she is enduring emotional consequences as a result of separation from the applicant. *Id.* at 2. She stated that the applicant has made an impact on her and her family members, and that family unity is important to them. *Id.*

The record contains documentation that shows that the applicant's wife had two chiropractic treatments, and a brief letter from a doctor who indicates that he is treating the applicant's wife for Adjustment disorder and major depression. *Forms from Valparaiso Chiropractic Center*, dated May 30 and June 4, 2007; *Letter from M.D.*, dated January 7, 2008.

Upon review, the applicant has not established that his wife will experience extreme hardship should he be prohibited from entering the United States. Specifically, the record does not support that the applicant's wife will experience extreme hardship should she remain in the United States.

The applicant's wife does not rely on the applicant for financial assistance. The applicant has not asserted or shown that he is employed or that he otherwise provides economic support to his wife. The applicant's wife explained that she has held stable in employment in the United States for a long duration, and the record suggests that she would be able to continue such employment in the applicant's absence.

The applicant's wife described her care of her family members in the United States, and she expressed that continuing such care is important to her. Should she remain in the United States, she will be able to continue this care.

The applicant's wife contends that she will experience significant emotional consequences should she continue to be separated from the applicant. The record contains a brief letter from a doctor who indicates that he is treating the applicant's wife for Adjustment disorder and major depression. However, the letter does not provide a description the treatment the applicant's wife has received, her progress, or a prognosis of her future mental health needs. This single letter is not sufficient to show that the applicant's wife is experiencing emotional hardship that is above that which would be expected of a family of an individual prohibited from entering the United States.

It is noted that the applicant and his wife have never resided in the same country or household, thus continued separation does not constitute a change in their circumstances. The AAO acknowledges that the applicant's wife wishes to be united with the applicant, yet the applicant has not shown that continuing their separation will result in extreme hardship as contemplated by sections 212(h) and (i) of the Act.

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 deported. The applicant has not shown that, should his wife remain in the United States, her hardship will constitute extreme hardship.

The applicant's wife described numerous hardships she would endure should she relocate abroad to join the applicant. Yet, as a United States citizen, she is not required to depart the United States as a result of the applicant's inadmissibility. As the applicant's wife may remain in the United States, and the applicant has not shown that doing so would result in extreme hardship, the applicant has not established that denial of the present waiver application "would result in extreme hardship," as required by sections 212(h) and (i) of the Act. Accordingly, the applicant has not shown that a qualifying relative would experience extreme hardship should he be prohibited from entering the United States.

Based on the foregoing, the instances of hardship that will be experienced by the applicant's wife should the applicant be prohibited from entering the United States, considered in aggregate, do not rise to the level of extreme hardship. 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 application for waiver of grounds of inadmissibility under section 212(a)(6)(C) 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.