

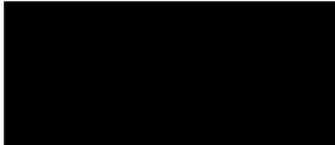
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U. S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

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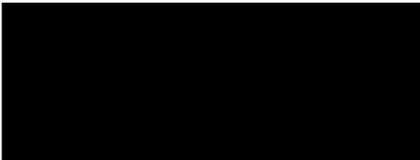
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IN RE:



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

ON BEHALF OF APPLICANT:



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 law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

for Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The application for waiver of inadmissibility was denied by the District Director, Miami, Florida, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Chile who was found to be inadmissible 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 having been convicted of a crime involving moral turpitude. The applicant is applying for a waiver under section 212(h) of the Act, 8 U.S.C. § 1182(h), in order to reside in the United States with her U.S. citizen stepchildren.

The director determined that the applicant failed to establish extreme hardship to a qualifying relative, and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the District Director*, dated December 31, 2007.

On appeal, counsel asserts that the applicant presented considerable documentary and testimonial evidence to establish that the denial of her admission would result in extreme hardship to her U.S. citizen stepchildren. *Attachment to Notice of Appeal (Form I-290B)*, dated January 10, 2008.

In support of the waiver application, the record includes, but is not limited to: the applicant's conviction records; financial records for the applicant and her stepson, [REDACTED]; the applicant's marriage certificate; [REDACTED] birth certificate; a letter from the applicant's [REDACTED] country condition reports for [REDACTED] naturalization certificate; [REDACTED] medical records; and [REDACTED] school records. The entire record was reviewed and considered in rendering a decision on the appeal.

Section 212(a)(2)(A) of the Act states, in pertinent parts:

(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.

(ii) Exception.—Clause (i)(I) shall not apply to an alien who committed only one crime if-

(I) the crime was committed when the alien was under 18 years of age, and the crime was committed (and the alien was released from any confinement to a prison or correctional institution imposed for the crime) more than 5 years before the date of the application for a visa or other documentation and the date of application for admission to the United States, or

(II) the maximum penalty possible for the crime of which the alien was convicted (or which the alien admits having committed or of which the acts that the alien admits having committed constituted the essential elements) did not exceed imprisonment for one year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment in excess of 6 months (regardless of the extent to which the sentence was ultimately executed).

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

[M]oral turpitude is a nebulous concept, which refers generally to conduct that shocks the public conscience as being inherently base, vile, or depraved, contrary to the rules of morality and the duties owed between man and man, either one's fellow man or society in general....

In determining whether a crime involves moral turpitude, we consider whether the act is accompanied by a vicious motive or corrupt mind. Where knowing or intentional conduct is an element of an offense, we have found moral turpitude to be present. However, where the required mens rea may not be determined from the statute, moral turpitude does not inhere.

(Citations omitted.)

In *Matter of Silva-Trevino*, 24 I&N Dec. 687 (A.G. 2008), the Attorney General articulated a new methodology for determining whether a conviction is a crime involving moral turpitude where the language of the criminal statute in question encompasses conduct involving moral turpitude and conduct that does not. First, in evaluating whether an offense is one that categorically involves moral turpitude, an adjudicator reviews the criminal statute at issue to determine if there is a "realistic probability, not a theoretical possibility," that the statute would be applied to reach conduct that does not involve moral turpitude. *Id.* at 698 (citing *Gonzalez v. Duenas-Alvarez*, 549 U.S. 183, 193 (2007)). A realistic probability exists where, at the time of the proceeding, an "actual (as opposed to hypothetical) case exists in which the relevant criminal statute was applied to conduct that did not involve moral turpitude. If the statute has not been so applied in any case (including the alien's own case), the adjudicator can reasonably conclude that all convictions under the statute may categorically be treated as ones involving moral turpitude." *Id.* at 697, 708 (citing *Duenas-Alvarez*, 549 U.S. at 193).

However, if a case exists in which the criminal statute in question was applied to conduct that does not involve moral turpitude, "the adjudicator cannot categorically treat all convictions under that statute as convictions for crimes that involve moral turpitude." 24 I&N Dec. at 697 (citing *Duenas-Alvarez*, 549 U.S. at 185-88, 193). An adjudicator then engages in a second-stage inquiry in which the adjudicator reviews the "record of conviction" to determine if the conviction was based on conduct involving moral turpitude. *Id.* at 698-699, 703-704, 708. The record of conviction consists of documents such as the indictment, the judgment of conviction, jury instructions, a signed guilty

plea, and the plea transcript. *Id.* at 698, 704, 708. If review of the record of conviction is inconclusive, an adjudicator then considers any additional evidence deemed necessary or appropriate to resolve accurately the moral turpitude question. 24 I&N Dec. at 699-704, 708-709. However, this “does not mean that the parties would be free to present any and all evidence bearing on an alien’s conduct leading to the conviction. (citation omitted). The sole purpose of the inquiry is to ascertain the nature of the prior conviction; it is not an invitation to relitigate the conviction itself.” *Id.* at 703.

The record reflects that on November 12, 1998, the applicant was convicted in the Circuit Court of the Eleventh Judicial Circuit, Dade County, Florida, of two counts of grand theft of the third degree in violation of Florida Statutes § 812.014(2)(c)1 and two counts of cashing or depositing item with intent to defraud in violation of Florida Statutes § 832.05(3)(a) (case no. 98-33302B). *See Finding of Guilt and Order of Withholding Adjudication.* The applicant was placed on probation for five years and ordered to pay fines and restitution to the victim. *See Order of Probation.*

At the time of the applicant’s conviction, Florida Statutes § 812.014 provided, in pertinent part:

(1) A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to, either temporarily or permanently:

(a) Deprive the other person of a right to the property or a benefit from the property.

(b) Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.

(2) . . .

(c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is:

. . .

1. Valued at \$300 or more, but less than \$5,000.

The Board has determined that to constitute a crime involving moral turpitude, a theft offense must require the intent to permanently take another person’s property. *See Matter of Grazley*, 14 I&N Dec. 330, 333 (BIA 1973) (“Ordinarily, a conviction for theft is considered to involve moral turpitude only when a permanent taking is intended.”). The AAO notes that the applicant’s statute of conviction is divisible because it may be violated by either permanently or temporarily depriving another person of the right or benefit of that person’s property.

The applicant has not presented, and the AAO is unaware of any prior case in which a conviction has been obtained under Florida Statutes § 812.014 for conduct not involving moral turpitude.

Nevertheless, in accordance with the language of [REDACTED] the AAO will review the record to determine if the statute was applied to conduct not involving moral turpitude in the applicant's own criminal case. The AAO notes that the documents comprising the record of conviction are inconclusive as to whether the applicant acted with intent to permanently deprive or to temporarily deprive another person of that person's property.

However, the record contains a complaint/arrest affidavit dated October 1, 1998, stating:

The defendant and co-defendant opened or assisted other parties to open checking accounts and utilized these accounts to deposit checks which were drawn on closed accounts that had previously been opened by the defendants at other financial institutions. The defendant and co-defendant deposited these checks knowing that the accounts were closed and the checks were worthless. These deposits created a false balance in the accounts and allowed the defendants to withdraw funds prior to the banks learning that the checks were drawn on closed accounts. . . .

The affidavit states that the total loss sustained by Executive National Bank was \$3,600.00. *Id.* Further, the criminal information charged that the applicant:

On or between November 26, 1997 and February 28, 1998, in the County and State aforesaid, did knowingly, unlawfully and feloniously obtain or use, or did knowingly, unlawfully, and feloniously endeavor to obtain or use U.S. coin or currency, value of three hundred dollars (\$300.00) or more but less than five thousand dollars (\$5,000.00), the property of [REDACTED] as owner or custodian, with the intent to deprive said owner or custodian of a right to the said property or a benefit therefrom, or to appropriate the same to said defendant's own use or to the use of a person not entitled thereto . . . .

In *Matter of Grazley*, 14 I&N Dec. 330, 333 (BIA 1973), the BIA found it reasonable to assume that a conviction for theft involving cash involved a permanent taking. Similarly, in *Matter of Jurado*, 24 I&N Dec. 29, 33-34 (BIA 2006), the Board found that violation of a retail theft statute involved moral turpitude because the nature of retail theft is such that it is reasonable to assume such an offense would be committed with the intention of retaining merchandise permanently.

The reasoning in *Grazley* and *Jurado* is applicable to this case. Based on the evidence in the record, the AAO finds it reasonable to assume that the applicant's conviction for grand theft involved the intent to retain the money permanently. She was thus convicted of knowingly taking the property of another with intent to permanently deprive that person of the property, a crime involving moral turpitude.

At the time of the applicant's conviction, Florida Statutes § 832.05 provided in pertinent part:

- (1) Purpose.—The purpose of this section is to remedy the evil of giving checks, drafts, bills of exchange, debit card orders, and other orders on banks without first

providing funds in or credit with the depositories on which the same are made or drawn to pay and satisfy the same, which tends to create the circulation of worthless checks, drafts, bills of exchange, debit card orders, and other orders on banks, bad banking, check kiting, and a mischief to trade and commerce.

(2) Worthless checks, drafts, or debit card orders; penalty.—

(a) It is unlawful for any person, firm, or corporation to draw, make, utter, issue, or deliver to another any check, draft, or other written order on any bank or depository, or to use a debit card, for the payment of money or its equivalent, knowing at the time of the drawing, making, uttering, issuing, or delivering such check or draft, or at the time of using such debit card, that the maker or drawer thereof has not sufficient funds on deposit in or credit with such bank or depository with which to pay the same on presentation; except that this section does not apply to any check when the payee or holder knows or has been expressly notified prior to the drawing or uttering of the check, or has reason to believe, that the drawer did not have on deposit or to the drawer's credit with the drawee sufficient funds to ensure payment as aforesaid, nor does this section apply to any postdated check.

(3) Cashing or depositing item with intent to defraud; penalty.—

(a) It is unlawful for any person, by act or common scheme, to cash or deposit any item, as defined in s. 674.104(1)(i), in any bank or depository with intent to defraud. .

In *Matter of Zangwill*, the BIA concluded that the issuance of worthless checks in violation of Florida Statutes § 832.05 does not expressly require intent to defraud as an element of the crime because the “statute speaks only of the ‘knowing’ issuance of worthless checks.” 18 I&N Dec. 22, 28 (BIA 1981). However, in this case, the applicant was convicted of the cashing or depositing an item with the *intent to defraud*. The BIA has held that “where a law governing the issuance of worthless checks, by its express terms, involves an intent to defraud, then a conviction for a violation of that law constitutes a crime involving moral turpitude for immigration purposes.” *Id.* at 29 (citing *Matter of Khalik*, 17 I & N. Dec. 518 (BIA 1980) (Michigan law); *Matter of Logan*, 17 I & N. Dec. 367 (BIA 1980) (Arkansas law); *Matter of Westman*, 17 I & N. Dec. 50 (BIA 1979) (Washington law); *Matter of McLean*, 12 I & N. Dec. 551 (BIA 1967) (California and Colorado law)). Since the statutory language includes the “intent to defraud,” we find that a violation of Florida Statutes § 832.05(3)(a) is categorically a crime involving moral turpitude.

Because the applicant has been convicted of two crimes involving moral turpitude, we find her inadmissible under section 212(a)(2)(A)(i)(I) of the Act. The applicant does not contest her inadmissibility on appeal.

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

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

....

(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General [Secretary] that the alien's denial of admission would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien . . . .

A waiver of inadmissibility under section 212(h) 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, parent, son or daughter of the applicant. Hardship to the applicant can be considered only insofar as it results in hardship to a qualifying relative. The applicant's stepchildren are the only family members who qualify in this case. 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-Morales*, 21 I&N Dec. 296, 301 (BIA 1996).

As a qualifying relative is not required to depart the United States as a consequence of an applicant's inadmissibility, two distinct factual scenarios exist should a waiver application be denied: either the qualifying relative will join the applicant to reside abroad or the qualifying relative will remain in the United States. Ascertaining the actual course of action that will be taken is complicated by the fact that an applicant may easily assert a plan for the qualifying relative to relocate abroad or to remain in the United States depending on which scenario presents the greatest prospective hardship, even though no intention exists to carry out the alleged plan in reality. *Cf. Matter of Ige*, 20 I&N Dec. 880, 885 (BIA 1994) (addressing separation of minor child from both parents applying for suspension of deportation). Thus, we interpret the statutory language of the various waiver provisions in section 212 of the Act to require an applicant to establish extreme hardship to his or her qualifying relative(s) under both possible scenarios. To endure the hardship of separation when extreme hardship could be avoided by joining the applicant abroad, or to endure the hardship of relocation when extreme hardship could be avoided by remaining in the United States, is a matter of choice and not the result of removal or inadmissibility. As the Board of Immigration Appeals stated in *Matter of Ige*:

[W]e consider the critical issue . . . to be whether a child would suffer extreme hardship if he accompanied his parent abroad. If, as in this case, no hardship would ensue, then the fact that the child might face hardship if left in the United States would be the result of parental choice, not the parent's deportation.

*Id.* See also *Matter of Pilch*, 21 I&N Dec. 627, 632-33 (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 deportation, 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. at 631-32; *Matter of Ige*, 20 I&N Dec. at 883; *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.*

We observe that 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., *In re 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).

Family separation, for instance, has been found to be a common result of inadmissibility or removal in some cases. See *Matter of Shaughnessy*, 12 I&N Dec. at 813. Nevertheless, family ties are to be considered in analyzing hardship. See *Matter of Cervantes-Gonzalez*, 22 I&N Dec. at 565-66. The question of whether family separation is the ordinary result of inadmissibility or removal may depend on the nature of family relationship considered. For example, in *Matter of Shaughnessy*, the

Board considered the scenario of parents being separated from their soon-to-be adult son, finding that this separation would not result in extreme hardship to the parents. *Id.* at 811-12; *see also U.S. v. Arrieta*, 224 F.3d 1076, 1082 (9th Cir. 2000) (“[redacted] was not a spouse, but a son and brother. It was evident from the record that the effect of the deportation order would be separation rather than relocation.”). In *Matter of Cervantes-Gonzalez*, the Board considered the scenario of the respondent’s spouse accompanying him to Mexico, finding that she would not experience extreme hardship from losing “physical proximity to her family” in the United States. 22 I&N Dec. at 566-67.

The decision in *Cervantes-Gonzalez* reflects the norm that spouses reside with one another and establish a life together such that separating from one another is likely to result in substantial hardship. It is common for both spouses to relocate abroad if one of them is not allowed to stay in the United States, which typically results in separation from other family members living in the United States. Other decisions reflect the expectation that minor children will remain with their parents, upon whom they usually depend for financial and emotional support. *See, e.g., Matter of Ige*, 20 I&N Dec. at 886 (“[I]t is generally preferable for children to be brought up by their parents.”). Therefore, the most important single hardship factor may be separation, particularly where spouses and minor children are concerned. *Salcido-Salcido*, 138 F.3d at 1293 (quoting *Contreras-Buenfil v. INS*, 712 F.2d 401, 403 (9th Cir. 1983)); *Cerrillo-Perez*, 809 F.2d at 1422.

Regardless of the type of family relationship involved, the hardship resulting from family separation is determined based on the actual impact of separation on an applicant, and all hardships must be considered in determining whether the combination of hardships takes the case beyond the consequences ordinarily associated with removal or inadmissibility. *Matter of O-J-O-*, 21 I&N Dec. at 383. Nevertheless, though we require an applicant to show that a qualifying relative would experience extreme hardship both in the event of relocation and in the event of separation, in analyzing the latter scenario, we give considerable, if not predominant, weight to the hardship of separation itself, particularly in cases involving the separation of spouses from one another and/or minor children from a parent. *Salcido-Salcido*, 138 F.3d at 1293.

The record shows that the applicant wed [redacted] on March 7, 1987. She became the stepmother to two U.S. citizen children as a result of the marriage. The applicant’s stepchildren, [redacted] are now 33 years old and 34 years old, respectively. The applicant has applied for adjustment of status based on an underlying approved Petition for Alien Relative (Form I-130) filed by her stepson, [redacted].

In the brief filed with the waiver application, counsel asserted that the applicant and her spouse provide financial and emotion support to [redacted]. Counsel notes that Juan does not have use of his right arm and therefore has limited employment opportunities. Counsel states that Juan is a single parent of two minor children, and he is employed at the applicant and her husband’s business, [redacted]. Counsel contends that without the applicant and her husband, [redacted] would be unemployed and unable to raise his two daughters without public assistance. Counsel further asserts that the applicant and her husband have been financially supporting [redacted] by assuming his educational costs. Counsel states that [redacted] obtained a certification as an Emergency Medical

Technician/Paramedic and is attempting to establish himself. *Brief from Counsel*, dated August 7, 2002.

The record contains a letter dated August 8, 2002 from Juan Garay attesting to the hardship he would suffer if his father and stepmother are denied admission to the United States. He asserts that his father, mother and stepmother "play a fundamental roll" in helping him raise his three-year-old and two-year-old daughters. He notes that he has lost complete movement and strength of his right arm, leaving him with limited employment opportunities.

The record contains a medical report for [REDACTED] dated February 13, 1980, which provides his diagnosis as "Status post septic right shoulder (age 12 days)" and "Shortening of the right humerus." *Medical Report from [REDACTED]* However, there is nothing in plain language from a physician that describes his current physical condition and restrictions on his daily life activities. Moreover, the record does not contain the birth certificates of [REDACTED] children, and evidence that he has parental custody over them. 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)). Similarly, without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). While unsupported assertions are relevant and have been considered, they can be afforded little weight in these proceedings, and are not alone sufficient to establish extreme hardship.

The record contains school records for [REDACTED], which state that he completed the requirements for the Emergency Medical Technician curriculum in April 2001 and he was placed on the Dean's List for the Spring term (2001-2) at Miami Dade Community College. *See Letter from [REDACTED]*, dated May 10, 2002, and *Miami-Dade Community College Award*. However, the financial documentation in the record reflects that Sebastian Garay is financially independent from his stepmother, and on November 16, 2001 he signed an *Affidavit of Support (Form I-864)* on her behalf. The financial documentation submitted with the Form I-864 reflects that he was a full-time employee with [REDACTED] and earned \$25,279 in 2000. *See Letter from [REDACTED]* [REDACTED] dated November 28, 2001, *2000 U.S. Individual Tax Return (Form 1040) and 2000 Wage and Tax Statement (Form W-2)*. The applicant, who filed her Notice of Appeal (Form I-290B) on January 24, 2008, did not present financial documentation for Sebastian Garay to demonstrate his current financial situation and any financial hardships he may be suffering.

All elements of hardship to the applicant's stepchildren, should they be separated from the applicant, have been considered in aggregate. The AAO finds that the record does not contain sufficient evidence to show that the hardships faced by the applicant's stepchildren, considered in the aggregate, rise beyond the common results of removal or inadmissibility to the level of extreme hardship.

Finally, the applicant submitted a report from the Central Intelligence Agency's *The World Factbook*, which details the history, government, economy, geography, communications, transportation, military, and transnational issues for Chile. However, she has not stated how the general conditions reflected in *The World Factbook* specifically relate to her stepsons. Nor has she asserted, or submitted evidence to demonstrate, that her stepchildren would suffer extreme hardship in Chile if they relocated there. Accordingly, the AAO cannot determine that the applicant's stepchildren would suffer extreme hardship if they relocated to Chile.

In this case, the record does not contain sufficient evidence to show that the hardships faced by the applicant's stepchildren, considered in the aggregate, rise beyond the common results of removal or inadmissibility to the level of extreme hardship. The AAO therefore finds that the applicant has failed to establish eligibility for a waiver of inadmissibility under section 212(h) of the Act. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether she merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(h) of the Act, the burden of establishing that the application merits approval remains entirely with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.