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

(b)(6)

U.S. Citizenship and Immigration Services

DATE: AUG 19 2013 Office: SEATTLE FILE:

IN RE:

APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i); and 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 (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 Field Office Director, Seattle, WA, denied the waiver application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant, a native and citizen of the [redacted] was found to be inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of a crime involving moral turpitude. He was also found inadmissible 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 having procured admission to the United States through fraud or willful misrepresentation of a material fact. He is applying for a waiver of inadmissibility under section 212(i), 8 U.S.C. § 1182(i) and section 212(h) of the Act, 8 U.S.C. § 1182(h), to reside in the United States with his U.S. citizen spouse and adult children. The applicant is the beneficiary of an approved Petition for Alien Relative (Form I-130) filed by his U.S. citizen daughter.

In a decision dated December 20, 2012, the Field Office Director concluded that the applicant did not establish extreme hardship to a qualifying relative and the waiver was denied accordingly. The Field Office Director also noted that the applicant did not establish that he warranted approval of his waiver application under section 212(h) of the Act in the exercise of discretion.

On appeal, counsel for the applicant states that the only material misrepresentation in the applicant's immigration history involved his 1991 entry into the United States "on a visa that was not in his name," and that the applicant established extreme hardship to his U.S. citizen spouse in regards to the waiver for that misrepresentation. Counsel also states that the applicant has established that he merits a waiver of his inadmissibility related to his 1996 conviction for Rendering Criminal Assistance in the First Degree, a crime involving moral turpitude.

In support of the waiver application, the record includes, but is not limited to: legal memoranda from counsel; biographical information for the applicant, his spouse, and their daughters; a declaration from the applicant; a declaration from the applicant's spouse; declarations from two of the applicant's daughters; medical records for the applicant; a psychological evaluation of the applicant, his spouse, and their daughters; letters of support concerning the applicant; country conditions information regarding the [redacted] and documentation of the applicant's criminal and immigration history.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The entire record was reviewed and considered in rendering a decision on the appeal.

The applicant was found to be inadmissible under section 212(a)(6)(C) of the Act, which 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 applicant is inadmissible under section 212(a)(6)(C) of the Act as a result of his having procured admission into the United States in 1991 using a passport and visa in the name of a different individual and not disclosing his prior immigration history. The record indicates that the applicant had previously been admitted to the United States as a lawful permanent resident on February 17, 1981 and departed the United States in January 1983 after an incident that led to a warrant for his arrest and his later conviction for Rendering Criminal Assistance in violation of Revised Code of [redacted]) § 9A.76.070. The Field Office Director's decision lists other instances in the applicant's immigration history where they believe he made misrepresentations and counsel for the applicant contests those claims; however, only one instance of material misrepresentation or fraud is necessary for the applicant to be subject to section 212(a)(6)(C) of the Act. On appeal, the applicant does not contest that he procured admission to the United States through fraud or material misrepresentation and, as such, we do not need to discuss the other instances mentioned in the Field Office Director's decision. The applicant is inadmissible under section 212(a)(6)(C) of the Act.

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.

The record indicates that the applicant is also inadmissible under section 212(a)(2) of the Act, which provides, in pertinent part:

> (A)(i) Except as provided in clause (ii), any 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, or...
> is inadmissible.

...

To determine if a crime involves moral turpitude, the Ninth Circuit Court of Appeals employs the categorical approach set forth in *Taylor v. United States*, 110 S.Ct. 2143 (1990). *See Nicanor-Romero v. Mukasey*, 523 F.3d 999, 1004 (9th Cir. 2008), *overruled on other grounds by Marmolejo-Campos v. Holder*, 58 F.3d 903, 911 (9th Cir. 2009). The purpose of the categorical approach is to determine whether the full range of conduct encompassed by the statute constitutes a crime of moral turpitude. *Cuevas–Gaspar v. Gonzalez*, 430 F.3d 1013, 1017 (9th Cir. 2005), *abrogation on other grounds recognized by Holder v. Martinez-Gutierrez*, 132 S.Ct. 2011, 2020-21 (2012). If the statute "criminalizes both conduct that does involve moral turpitude and other conduct that does not, the modified categorical approach is applied." *Marmolejo-Campos*, 558 F.3d at 912 (citing *Fernando-Ruiz v. Gonzalez*, 466 F.3d 1121, 1163 (9th Cir. 2006)); *see also Castillo-Cruz v. Holder*, 581 F.3d 1154, 1161 (9th Cir. 2009). However, there must be "a realistic probability, not a theoretical possibility, that the statute would be applied to reach conduct that did not involve moral turpitude." *Nicanor-Romero*, 523 F.3d at 1004 (quoting *Gonzales v. Duenas-Alvarez*, 549 U.S. 183, 193 (2007). To demonstrate a "realistic probability," the applicant must point to his or her own case or other cases in which the state courts in fact did apply the statute to conduct not involving moral turpitude. 523 F.3d at 1004-05. A realistic probably also exists where the statute expressly punishes conduct not involving moral turpitude. *See U.S. v. Vidal*, 504 F.3d 1072, 1082 (9th Cir. 2007).

Once a realistic probability is established, the modified categorical approach is applied, which requires looking to the "limited, specified set of documents" that comprise what is known as the record of conviction – the charging document, a signed plea agreement, jury instructions, guilty pleas, transcripts of a plea proceeding and the judgment – to determine if the conviction entailed admission to, or proof of, the elements of a crime involving moral turpitude. *Castillo-Cruz*, 581 F.3d at 1161 (citing *Fernando-Ruiz,* 466 F.3d at 1132-33); *see also Marmolejo-Campos*, 558 F.3d at 912 (citing *Cuevas–Gaspar*, 430 F.3d at 1020). The Ninth Circuit has reaffirmed that courts may not examine evidence outside the record of conviction in determining whether a conviction was for a crime involving moral turpitude. *See Olivas-Motta v. Holder*, 716 F.3d 1199 (9th Cir. 2013) (rejecting *Matter of Silva-Trevino*, 24 I&N Dec. 687 (A.G. 2008)).

On June 28, 1996 before the [redacted] Superior Court the applicant pled guilty to Rendering Criminal Assistance in the First Degree in violation of [redacted] § 9A.76.070(1)(2)(b) pursuant to a plea agreement. RCW § 9A.76.070 provided at the time of the applicant's conviction that:

> Rendering criminal assistance in the first degree
>
> (1) A person is guilty of rendering criminal assistance in the first degree if he renders criminal assistance to a person who has committed or is being sought for murder in the first degree or any class A felony or equivalent juvenile offense.
>
> (2) Rendering criminal assistance in the first degree is:
>
> (a) A gross misdemeanor if it is established by a preponderance of the evidence that the actor is a relative as defined in RCW 9A.76.060;
>
> (b) A class C felony in all other cases.

The applicant was sentenced to 10 months of confinement and 12 months of community supervision following confinement. The conviction was in relation to a murder that was committed on January 15, 1983. The applicant absconded from the United States after the crime and was not apprehended until 1996 pursuant to a warrant for his arrest. The record of conviction in this case, which includes the plea agreement, indicates that the applicant took affirmative steps to render criminal assistance to a person who committed or was being sought for murder in the first degree.

In 2007, an Immigration Judge in issued an order finding the applicant's conviction to be a crime involving moral turpitude under section 212(a)(2)(A)(i)(I) of the Act. The applicant's removal proceedings were administratively closed so that he could pursue adjustment of status before the U.S. Citizenship and Immigration Services. In connection with that application, the Field Office Director also found the applicant's conviction to be for a crime involving moral turpitude rendering the applicant inadmissible under section 212(a)(2)(A)(i)(I) of the Act, the applicant does not contest this ground of inadmissibility on appeal, and the AAO sees no reason to disturb that finding.

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

> The Attorney General may, in his discretion, waive the application of subparagraphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2) and subparagraph (A)(i)(II) of such subsection insofar as it relates to a single offense of simple possession of 30 grams or less of marijuana . . . .
>
> (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
>
> (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 . . .; and
>
> (2) the Attorney General [Secretary], in his discretion, and pursuant to such terms, conditions and procedures as he may by regulations prescribe, has consented to the

alien's applying or reapplying for a visa, for admission to the United States, or adjustment of status.

As 15 years have passed since the activities that led to the applicant's conviction, the applicant would be eligible to apply for a waiver of inadmissibility under section 212(h)(1)(A) of the Act, based on a determination of whether his admission to the United States would not be contrary to the national welfare, safety, or security of the United States and whether he has been rehabilitated. However, we must first determine whether the applicant has established extreme hardship to his U.S. citizen spouse as required for the waiver under section 212(i) of the Act.

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 U.S. citizen or lawful permanent resident spouse or parent. In counsel's undated memorandum of law submitted as tab 3 in connection with the Form I-290B, counsel sets forth facts to be considered in the applicant's waiver application, failing to distinguish between the requirements under section 212(i), under which the applicant's spouse is the only qualifying relative, and section 212(h)(1)(A) of the Act, where the applicant's rehabilitation and the welfare and safety of the United States are relevant. Were the applicant to be seeking a waiver under section 212(h)(1)(B) of the Act, his daughters would be qualifying relatives. But, we will not reach a determination regarding the applicant's eligibility for a waiver under either subsection of 212(h) of the Act, before first determining whether the applicant merits a waiver under section 212(i) of the Act. In regards to the applicant's eligibility for a waiver under section 212(i) of the Act, as set forth in the following paragraphs, the AAO will consider hardship to the applicant and his adult daughters only insofar as the hardship to them is shown to affect the hardship to the applicant's spouse. If extreme hardship to a qualifying relative is established, the applicant is statutorily eligible for a waiver, and USCIS then assesses whether a favorable exercise of discretion is warranted. *See Matter of Mendez-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).

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*, 138 F.3d 1292, 1293 (9th Cir. 1998) (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.

We will first consider the hardship claimed to the applicant's U.S. citizen spouse if she were to remain in the United States and be separated from the applicant. Counsel for the applicant states that the applicant's spouse will suffer from physical, psychological and occupational hardship as a result of separation from the applicant, emphasizing the hardship that the applicant's spouse would experience as a result of hardship to the couple's U.S. citizen daughter, , and U.S. lawful permanent resident daughter, . The AAO notes that the applicant's two daughters are aged and , respectively. In regards to the applicant and his spouse's -year-old daughter counsel cites a report by Dr. , PhD, who explains that suffers from "clinically significant levels of depression" and has experienced feelings of suicidal ideation. Dr. states that reported seeing "little hope or meaning in her life without her father's

active presence…" The record indicates that resides with her parents and that only with her parent's assistance was she able to obtain a modification of her mortgage. The applicant's daughter, in her declaration, further states that she would lose her home without her parent's support. The record, however, does not contain any documentation to support this conclusion. Although the applicant's daughter's assertions 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)). Similarly, without supporting evidence, the assertions of counsel will not satisfy the applicant's burden of proof. The unsupported assertions of counsel do not constitute evidence. *See Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The applicant's daughter also stated that her future educational pursuits are dependent on the applicant's financial contributions. At the same time, the applicant's daughter indicates in her declaration that she is engaged to be married. Although she states that her fiancé does not make sufficient money for her to pursue her goals, she does not provide any documentation of that assertion. The AAO recognizes the applicant's spouse's daughter's stated reliance on her father's assistance for her educational goals, but, as stated above, the inability to pursue one's chosen profession has been found to be one of the common or typical results of inadmissibility and not the type of hardship that is considered extreme. *See generally Matter of Cervantes-Gonzalez*, 22 I&N Dec. at 568; *Matter of Pilch, 21 I&N Dec. at 632-33*; *Matter of Ige, 20 I&N Dec. at 885*; *Matter of Ngai,* 19 I&N Dec. at 246-47; *Matter of Kim,* 15 I&N Dec. at 89-90; *Matter of Shaughnessy,* 12 I&N Dec. at 813.

Counsel also states that the applicant's lawful permanent resident daughter, , has a young son, and they both reside with and rely on the applicant. In his report, Dr. notes that was pregnant at the time of the evaluation and was experiencing multiple life stressors including the separation from her fiancé, her pregnancy, and her father's potential removal. Although the record contains a declaration from the applicant's daughter, no other documentary evidence was submitted to support the assertion that the -year-old woman and her son rely on the applicant financially and physically. As stated above, 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. at 165.

Dr. further concludes that the applicant's spouse and both of his adult daughter's "interdependence" on the applicant, would lead the applicant's spouse to experience further decline of her mental health functioning in the absence of the applicant. Although there are deficiencies in the evidence of record noted above, the AAO will take into consideration the applicant's spouse's mother's concern for her adult daughters to the extent it is documented in the record when assessing whether the cumulative hardship to the applicant's spouse rises to the level of extreme. Dr. states that the exacerbation of the applicant's spouse symptoms "will likely

severely compromise her physical, psychological, and occupational functioning." Dr. states that the applicant's spouse is suffering from clinical levels of depression and anxiety and that the applicant's spouse reported that she would not know what to do without the "strong support" that the applicant provides to her and her daughters. The applicant's spouse further states in her declaration that she has previously suffered from depression and taken medication for her condition; however, no documentary evidence was submitted to support that assertion. Again, 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. at 165. The AAO notes the applicant's spouse's mental health and her concern over separation from the applicant, but the record does not further elaborate on the specific ways in which her day to day life would be affected by separation from the applicant. Dr. did not provide details concerning the applicant's spouse's symptoms and any course of recommended treatment when diagnosing her with Major Depression and Generalized Anxiety Disorder. Additionally, he reached the conclusion that the applicant's spouse would suffer from financial hardship if she were to be separated from the applicant, but there is very little if no documentation in the record regarding the applicant's spouse's employment, income or her expenses. Moreover, the record also establishes that the applicant's spouse has multiple family members in the United States and she has not indicated why she couldn't rely, if needed, on her family members in the applicant's absence.

Counsel also states that the applicant's spouse would suffer hardship as a result of worry about the applicant's physical health in the that the applicant "will not be able to survive alone in the and that the applicant's removal from the United States "will pose a great risk to his health." The record establishes that the applicant suffered from a stroke in January 2011. Notes from a follow-up visit dated January 25, 2011, state that the applicant has a past medical history significant for poorly controlled diabetes and hypertension. The notes indicate that the applicant was suffering from "residual language disfunction" and that "concern is high for traditional vascular risk factors as well as cardioembolic etiology of stroke." A letter from Dr. dated September 12, 2011 indicated that the applicant "still has problems with expressive language, particularly when communicating over the phone and in stressful situations." Dr. stated that the applicant was on multiple medications and "needs ongoing medical care and therapy," concluding that "deporting him to a country with limited medical care would be detrimental to his family and his health." Dr. did not indicate that he had any knowledge of the medical care available in the and did not further elaborate on what ongoing medical care and therapy the applicant required. Based on this limited information it is not possible to conclude that the "the applicant will not be able to survive alone in the and that residing there "will pose a great risk to his health." The lack of documentary evidence in the record supporting counsel and the applicant's spouse's assertions concerning her hardship limits the ability of the AAO to determine the degree of hardship that the applicant's spouse would experience in the absence of her husband. The AAO recognizes the applicant's spouse's difficult position; however, the hardships presented, even when considered in the aggregate, do not rise to the level of extreme hardship.

In regards to the hardship to the applicant's spouse were she to relocate to the [redacted] to reside with the applicant, the applicant's spouse states that she cannot imagine having to choose between living with her adult daughters in the United States or moving to the [redacted] with her husband. The AAO notes the applicant's spouse's family ties in the United States, including her two adult daughters and her grandson. Although the record indicates that the applicant's spouse resides with her daughters and grandson and maintains a close relationship with them, neither counsel nor the applicant have addressed why their relationships cannot be maintained if the applicant's spouse were to relocate. Additionally, there is no documentation in the record to indicate why the applicant's daughters would be unable to relocate to their native [redacted] where the record indicates that one of them resided as recently as 2009. Counsel also states that the applicant's spouse would not be able to find work in the [redacted] due to her age and the "lack of employment opportunities for middle-aged women in the [redacted] In support of that conclusion, the record contains the article "Income inequality in [redacted] still tagged as one of [redacted] worst" from GMA News Online dated October 17, 2008. Not only is this article not current, but it contains general information that does not illustrate that the applicant's spouse would face hardship in obtaining employment in the [redacted] As stated above, the record indicates that the applicant's spouse has been gainfully employed in the United States but the record is devoid of documentation on her work history and current skills, education, savings, and income, all which would be relevant to her ability to obtain employment were she to relocate. Counsel also states that the applicant's spouse is "in relatively poor health," stating that she takes medications for hypertension, stomach problems, allergies, high cholesterol, and high triglycerides and that she would "undoubtedly face extreme medical hardship" were she to reside in the [redacted] The record does not contain documentation of the applicant's spouse's required medications or diagnoses from a physician, or the unavailability of care in the [redacted] Again, 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. at 165

Further, counsel states that the applicant will not be able to support himself and his spouse as a result of his physical condition. There is no documentation in the record that leads to the conclusion that the applicant's medical health would prevent him from obtaining employment in the [redacted] As stated above, Dr. [redacted] provided only a generalized statement that removing the applicant "to a country with limited medical care would be detrimental to his family and his health," without providing a basis for that conclusion or referring to any specific country or medical care. The applicant's daughter indicates that her parents will not be able to afford health care and their medications, but again, the record does not contain documentation to support that assertion. Dr. [redacted] report indicates that the applicant, his spouse, and their daughters are all gainfully employed in the United States. In regards to the financial hardship that the applicant's spouse would experience were she to relocate, there is no indication in the record of the type of assets or savings that the applicant and his spouse could rely upon were they to relocate to the [redacted] or whether their daughters would be able to assist them financially. Based on the information provided, considered in the aggregate, the evidence does not illustrate that the hardship suffered in this case, should the applicant's spouse relocate to the Philippines, would be beyond what is normally experienced by families dealing with removal or inadmissibility. *Matter of O-J-O-*, 21 I&N Dec. at 383.

Although the applicant's spouse concern over the applicant's immigration status is neither doubted nor minimized, the fact remains that Congress provided for a waiver of inadmissibility only under limited circumstances. In nearly every qualifying relationship, whether between husband and wife or parent and child, there is a deep level of affection and a certain amount of 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 section 212(i) of the Act, be above and beyond the normal, expected hardship involved in such cases.

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 spouse will face extreme hardship if the applicant is not granted a waiver of inadmissibility. Although the AAO acknowledges that the applicant's U.S. citizen spouse will suffer some hardship, the record does not establish that the hardship rises to the level of "extreme" as contemplated by statute and case law. Having found the applicant statutorily ineligible for relief under section 212(i) of the Act, no purpose would be served in discussing whether the applicant merits a waiver under section 212(h) or as a matter of discretion.

In these proceedings, the burden of establishing eligibility for the waiver rests entirely with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. In this case, the applicant has not met his burden and the appeal will be dismissed.

ORDER: The appeal is dismissed.