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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Avenue, NW, MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

[Redacted]

DATE: JUN 04 2013 Office: LONDON FILE: [Redacted]

IN RE: [Redacted]

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:

[Redacted]

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

A handwritten signature in black ink that reads "Michael Shanahan".

Ron Rosenberg, Acting Chief
Administrative Appeals Office

DISCUSSION: The application for waiver of inadmissibility 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 Ireland who was found to be inadmissible under section 212(a)(2)(A)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(II), for having violated a law relating to a controlled substance. The applicant was also found inadmissible under section 212(a)(2)(A)(i)(I) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(II), for having committed 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 his U.S. citizen spouse and daughter.

On May 29, 2012, the Field Office Director determined that the applicant failed to establish extreme hardship to a qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility accordingly.

On appeal, counsel for the applicant states that the applicant's U.S. citizen spouse will suffer extreme hardship as result of the applicant's inadmissibility.

In support of the waiver application, the record includes, but is not limited to a brief by the applicant's counsel, biographical information for the applicant and his U.S. citizen spouse, a statement from the applicant, a statement from the applicant's spouse, medical and psychological records for the applicant's spouse, limited financial information for the applicant's spouse, documentation regarding the applicant's employment and unemployment, documentation regarding the spouse's mother, country conditions information for Ireland, and documentation of the applicant's criminal and immigration history.

We will first address the applicant's admissibility. The applicant was found to be inadmissible under section 212(a)(2)(A)(i)(II) of the Act for having been convicted of a crime involving a controlled substance.

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

(A) Conviction of certain crimes. -

(i) In general. - 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-

...

(II) a violation of (or conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), is inadmissible.

On July 16, 2002, the applicant was convicted of Unlawful Possession of Drugs Contrary to Section 3 of the Misuse of Drugs Act of Ireland, which states in pertinent part:

Restriction on possession of controlled drugs.

3.—(1) Subject to subsection (3) of this section and section 4 (3) of this Act, a person shall not have a controlled drug in his possession.

(2) A person who has a controlled drug in his possession in contravention of subsection (1) of this section shall be guilty of an offence.

(3) The Minister may by order declare that subsection (1) of this section shall not apply to a controlled drug specified in the order, and for so long as an order under this subsection is in force the prohibition contained in the said subsection (1) shall not apply to a drug which is a controlled drug specified in the order.

(4) The Minister may by order amend or revoke an order under this section (including an order made under this subsection).

A letter from the [REDACTED] states that the applicant was prosecuted for possession of 7.793 grams of cannabis resin. The applicant was fined as result of this offense. As result of this conviction, the applicant is inadmissible under section 212(a)(2)(A)(i)(II) of the Act for having been convicted of an offense involving possession of a controlled substance. The applicant does not challenge his inadmissibility on appeal.

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

The Attorney General [Secretary of Homeland Security] may, in his discretion, waive the application of subparagraph (A)(i)(I) . . . 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 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

(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.

The AAO notes that the records indicate that the applicant's conviction involved cannabis resin, which is a more potent form of marijuana. *See United States Sentencing Commission Supplement to the 2000 Guidelines Manual*, dated May 1, 2001, Drug Equivalency Table. As noted in an opinion from General Counsel:

We note that despite their common origin, cannabis leaves and other cannabis products are distinguishable. Simple possession of some cannabis products is much more serious an offense than simple possession of cannabis leaves. The law recognizes this distinction. For sentencing, 30 grams of cannabis resin is equivalent to 150 grams of marijuana. 18 U.S.C. App. 4 § 2D1.1(Drug Equivalency Table, Schedule 1, marijuana).

In adjudicating cases involving forms of the same drug that have different potencies, and that are treated differently for sentencing, it is appropriate for the Service to take note of these distinctions...

For purposes of sentencing, for example, 6 grams of cannabis resin is the equivalent of 30 grams of marijuana leaves. 18 U.S.C. App. 4 § 2D1.1 (Drug Equivalency Table, Schedule 1, Marijuana) (providing a 1-to-5 ratio for equivalency.).

General Counsel's Opinion 96-3, Section 212(h) Waiver for Controlled Substance Violations-Forms of Marijuana Other than Marijuana Leaves, dated April 23, 1996. As noted above, inadmissibility under section 212(a)(2)(A)(i)(II) of the Act may be waived under 212(h) of the Act only as it relates to the simple possession of 30 grams or less of marijuana. In the present case, the record indicates that the applicant was in possession of 7.793 grams of cannabis resin, the equivalent of 46.758 grams of marijuana. Accordingly, based on the information in the record, he is not eligible for the limited waiver available for marijuana possession in section 212(h).

The AAO notes that even were the applicant to demonstrate that he is eligible for a waiver of under section 212(h) for his controlled substance conviction, his appeal would be dismissed as set forth below.

The applicant was also found to be inadmissible under Section 212(a)(2)(A) of the Act which 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.

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, clarified that for a crime to qualify as a crime involving moral turpitude (CIMT) for purposes of the Act, it “must involve both reprehensible conduct and some degree of scienter, whether specific intent, deliberateness, willfulness, or recklessness.” The BIA has also held that a finding of moral turpitude involves an assessment of both the state of mind and the level of harm required to complete the offense. *See Matter of Solon*, 24 I&N Dec. 239, 242 (BIA 2007). Thus, intentional conduct resulting in a meaningful level of harm, which must be more than mere offensive touching, may be considered morally turpitudinous. *See Matter of Danesh*, 19 I&N Dec. 669 (BIA 1988) (finding that an aggravated assault against a peace officer, which results in bodily harm to the victim and which involves knowledge by the offender that his force is directed to an officer who is performing an official duty, constitutes a crime involving moral turpitude); *see also Matter of Solon*, 24 I&N Dec. at 245 (finding that the offense of assault in the third degree in violation of section 120.00(1) of the New York Penal Law is a crime involving moral turpitude, as such an offense requires both a specific intent to cause injury and physical injury to the victim).

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. *Matter of Silva-Trevino*, 24 I&N Dec. 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).

Where the conviction is not categorically a CIMT, a modified categorical inquiry is used to inspect the specific documents comprising the record of conviction (such as the indictment, the judgment of conviction, jury instructions, a signed guilty plea, or the plea transcript) to discern the nature of the underlying conviction. *Id.* at 690, 698-99. Finally, if the record of conviction is inconclusive, the Attorney General has held that because moral turpitude is not an element of an offense, evidence beyond the record of conviction may be considered when evaluating whether an alien's crime involved moral turpitude. *Id.* at 690, 699-701.

The record indicates that the applicant was arrested on six occasions between July 17, 2000 and February 9, 2010, resulting in more than six convictions. Of those convictions, three involved the violation of Section 3 of the Non Fatal Offences against the Person Act of 1997 of Ireland, Assault Causing Harm,¹ which states in pertinent part:

Assault causing harm.

3.—(1) A person who assaults another causing him or her harm shall be guilty of an offence.

(2) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding £1,500 or to both, or

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 5 years or to both.

Although the record indicates that the applicant was not sentenced to a term of imprisonment in excess of six months, the maximum sentence of imprisonment for a conviction under this provision of law exceeds one year and the applicant has more than one conviction, as such, the applicant does not qualify for any exception to the ground of inadmissibility at section 212(a)(2)(A) of the Act. As the applicant has not contested inadmissibility on appeal, and the record does not show that the Field Office Director's determination is in error, we will not disturb the finding that the applicant is also inadmissible under section 212(a)(2)(A)(i)(I) of the Act. Moreover, as the applicant is separately inadmissible under section 212(a)(2)(A)(i)(II) of the Act for his controlled substance violation, he requires a waiver of inadmissibility regardless of the outcome of a determination in regards to his inadmissibility for having committed a crime involving moral turpitude.

Since the activities that are the basis for the applicant's last conviction leading to inadmissibility under section 212(a)(2)(A) did not occur more than 15 years ago, he must prove that the denial of his admission would result in extreme hardship to a qualifying relative. A waiver of

¹ The other convictions involved Threatening/Abusive/Insulting Behavior in a Public Place contrary to section 6 of the Criminal Justice (Public Order) Act, 1994.

inadmissibility under section 212(h)(1)(B) of the Act is dependent on a showing that the bar to admission imposes extreme hardship on a qualifying relative, which includes a U.S. citizen or lawfully resident spouse, parent, or child of the applicant. Hardship to the applicant can be considered only insofar as it results in hardship to a qualifying relative. The applicant's spouse is the only qualifying relative in this case. The AAO notes that the applicant states that he has a U.S. citizen daughter, however, no documentation was provided to support that statement. Moreover, counsel does not state that the applicant's daughter would suffer from extreme hardship as a result of his inadmissibility. If extreme hardship to a qualifying relative is established, the applicant is statutorily eligible for a waiver, and the AAO 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 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. 627, 632-33 (BIA 1996); *Matter of Ige*, 20 I&N Dec. 880, 885 (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*, 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.

On appeal, counsel for the applicant asserts that the applicant's U.S. citizen spouse will suffer extreme hardship if the applicant is not admitted to the United States. We will first consider the hardship claimed to the applicant's spouse if she were to return to the United States and be separated from the applicant. Counsel for the applicant states that the applicant is the "only possible financial provider for the family." Additionally, the applicant's spouse states that her husband is the only person that can support her and her daughter considering her current medical condition. Counsel states that the applicant's spouse previously worked in the United States making a good income, but she is now disabled and unable to work and earn an income. Counsel also states that the applicant's spouse's mother is disabled and unable to help the applicant's spouse financially. Counsel, however, does not mention the role that the applicant's father could play. The applicant's spouse stated that her father was the financial sponsor for the applicant on his visa application, thus it is not clear why his role was not mentioned by counsel. Additionally, counsel indicates that the applicant's spouse's income was less in 2010 as a result of her illness and that she has not been able to work since that time. That change in the applicant's spouse's income, however, also coincides with the birth of the applicant's spouse's daughter and her move to Ireland. Moreover, the medical records submitted do not support counsel's assertion that the applicant's spouse is disabled and unable to work to support herself.

A letter dated June 18, 2012 from Dr. [REDACTED] in [REDACTED] Ireland, states that the applicant's spouse suffers from multiple complex medical conditions, including ulcerative colitis, interstitial cystitis, severe depression and anxiety. Dr. [REDACTED] states that "these longterm, chronic physical and mental illnesses are putting continued stress" on the applicant's spouse and her family affairs. In her statement, the applicant's spouse ties her current medical problems to the stress that she is suffering as a result of the applicant's inadmissibility, but the record does not establish that the applicant's spouse's medical condition would be affected negatively if she returned to the United States to receive treatment and thus, be

separated from the applicant. The AAO recognizes the applicant's medical conditions and notes that significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate, are relevant factors in establishing extreme hardship. In this case, however, the evidence on the record is insufficient to establish that the applicant's spouse suffers from a disabling condition or that her condition is affected by the applicant's inadmissibility. The record does not establish that the applicant's spouse would be unable to work in the United States as the result of her condition. Nor does the record establish what treatment and assistance the applicant's spouse requires and the role the applicant plays in assisting his spouse with her conditions.

Counsel also states that the applicant's spouse's emotional health would be negatively affected if she were to be separated from the applicant. In support of this statement, the record contains a letter dated July 3, 2012 from Dr. [REDACTED] consultant psychiatrist, of Health Service Executive in [REDACTED] Ireland. Dr. [REDACTED] states that the applicant's spouse was referred to his clinic in October 2010 due to her symptoms of depression and anxiety. He states that the applicant's spouse had been suffering from depression dating to her teenage years and that her current medical condition and the condition of her mother were further sources of stress. Dr. [REDACTED] states that he believes that "ongoing support from her husband is an essential component to the treatment plan and without his support" he believes that "there could be a catastrophic deterioration in her mental state," citing the importance of the stable relationship between the applicant and his spouse. The record, which includes a prescription record from CVS in [REDACTED] New York, also indicates that the applicant's spouse has been taking anti-anxiety and anti-depressant medication dating back to 2001. There are extensive notes as a part of the prescription record, most of which are illegible. What is clear from the record is that the applicant's spouse has had a history of anxiety and depression. Although the AAO respects the opinion of Dr. [REDACTED] the record does not establish the degree to which the applicant's mental health will be affected by separation from the applicant. The AAO recognizes the impact of separation on families, but the evidence in the record, when considered in the aggregate, does not indicate that the hardship in this case as a result of the applicant's spouse's separation from the applicant would be extreme. *Matter of O-J-O-*, 21 I&N Dec. at 383.

Counsel also states that the applicant's spouse is experiencing extreme hardship and will continue to do so as a result of her relocation to Ireland to reside with the applicant. In particular, counsel states that the applicant's spouse is suffering as a result of her and the applicant's financial circumstances in Ireland. Counsel states that although the applicant is technically employed as a carpenter, the company that employs him does not have work for him. The record contains a letter dated June 18, 2012 from the Department of Social and Family Affairs, Social Welfare Branch Office, in [REDACTED] Ireland stating that the applicant has been unemployed since May 2011 and is claiming Jobseekers Allowance. The applicant's spouse states that she does not want to live in or raise her daughter in a country that promotes social welfare dependence. The AAO recognizes that this may be a frustrating situation for the applicant's spouse, but there is no indication in the record that the applicant's spouse is suffering from financial hardship. The record does not document the applicant's spouse's expenses or inability to meet those expenses. Although the applicant's spouse'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).

Additionally counsel cites problems with the health care system in Ireland as a source of hardship for the applicant’s spouse. As noted above, the applicant’s spouse suffers from numerous serious medical conditions. Counsel states that in Ireland “medical care is a state-run affair and many sources site a problem of long “waiting lists” to receive treatment. In support of that statement, counsel submitted numerous articles citing waiting lists and waiting times for treatment in Ireland. There is no indication in the record, however, that the applicant’s spouse has suffered hardship as a result of those reported problems with the health care system in Ireland. The record contains documentation that the applicant’s spouse has received care and treatment in Ireland, but there is no indication that the care has been untimely or inadequate. 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.

Lastly counsel states that the applicant’s spouse has important family ties in the United States, in particular her disabled mother. Counsel states that the applicant’s spouse is “very close to her mother” and “is torn apart by the prospects of not being able to assist her mother.” The record indicates that the applicant’s spouse’s mother resides in Florida and was found eligible to receive disability benefits as the result of her depression/anxiety, headaches, right arm pain, and sinus infections. The AAO notes that before residing in Ireland, the applicant’s spouse stated on Form G-325A that she lived and worked in Connecticut and New York for the previous five years. It is not clear from the record how often the applicant’s spouse was in contact with her mother or how that contact has been impaired by the applicant’s spouse’s residence in Ireland. The applicant’s spouse also states that she misses her nephews, sisters, and her father, but the record does not contain any documentation establishing those familial relationships or the impact of separation from those individuals on the applicant’s spouse. In sum, although the record indicates that the applicant's spouse has suffered from serious medical conditions, there is not enough documentary evidence to illustrate that her hardship is affected by the applicant’s admissibility or how it would be impacted by the denial of admission. Considered in the aggregate, the hardship to the applicant’s spouse as a result of relocation to Ireland, does not rise to the level of extreme beyond the common results of removal.

Although the applicant’s spouse’s 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(h) of the Act, be above and beyond the normal, expected hardship involved in such cases.

In this case, the record does not contain sufficient evidence to show that the hardships faced by the qualifying relative, 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 extreme hardship to his qualifying relative as required under section 212(h) of the Act. The AAO also notes that based on the information in the record, even were the applicant to establish extreme hardship to a qualifying relative, he would not be eligible for a waiver of inadmissibility as he is inadmissible under section 212(a)(2)(A)(i)(II) of the Act for having been convicted of a crime involving a controlled substance that does not involve 30 grams or less of marijuana. As such, no purpose would be served in determining whether he merits a waiver as a matter of discretion.

In proceedings for an application for waiver of grounds of inadmissibility under section 212(h) of the Act, the burden of proving eligibility remains entirely with the applicant. 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.