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U.S. Citizenship  
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FILE:

Office: ATHENS, GREECE

Date:

**AUG 12 2008**

IN RE: Applicant:



APPLICATION:

Application for Waiver of Grounds of Inadmissibility under section 212(a)(9)(B)(v) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B)(v)

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Acting Officer in Charge, Athens, Greece, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant, a native and citizen of Jordan, initially entered the United States as a visitor in July 1992 with permission to remain until January 16, 1993. The applicant remained in the United States beyond his period of authorized stay. He subsequently departed the United States in June 2003. The applicant accrued unlawful presence from April 1, 1997, the date of the enactment of the unlawful presence provisions, until his departure in June 2003. The applicant was found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year. The applicant seeks a waiver of inadmissibility in order to return to the United States to reside with his U.S. citizen spouse in the United States.

The acting officer in charge concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the Acting Officer in Charge*, dated April 15, 2005.

On May 17, 2005, counsel for the applicant filed a timely appeal pursuant to the erroneous instructions provided to him with the decision. On February 27, 2006, pursuant to revised instructions, counsel submitted the Form I-290B<sup>1</sup> and provided a brief reason for the appeal on said form. Counsel also indicated on the Form I-290B that he would need 90 days to submit a brief and/or evidence to the AAO in support of the appeal. On June 30, 2008, the AAO sent a fax to counsel, stating that to date, the AAO had no record that any further evidence or brief was ever received, and requesting that counsel submit a copy of the brief and/or evidence to AAO, along with evidence that it was originally filed with the AAO within the 90 day period requested, within five business days. No information was sent by counsel in response to this fax and thus, the record is considered complete.

Section 212(a)(9)(B)(i)(II) of the Act provides, in pertinent part:

(B) Aliens Unlawfully Present.-

(i) In general. - Any alien (other than an alien lawfully admitted for permanent residence) who-

....

(II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States, is inadmissible.

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<sup>1</sup> The correct fee for the appeal was submitted on April 14, 2006. The appeal will be considered timely filed, since counsel's use of the wrong form and the incorrect fee was due to the incorrect information given him by the former Acting Officer in Charge of the Athens office of USCIS.

....

(v) Waiver. – The Attorney General [now the Secretary of Homeland Security (Secretary)] has sole discretion to waive clause (i) in the case of an immigrant who is the spouse or 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 such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien....

In *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565-66 (BIA 1999), the Board of Immigration Appeals (BIA) provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship to a qualifying relative. 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.

Relevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists. In each case, the trier of fact must consider the entire range of factors concerning hardship in their totality and determine whether the combination of hardships takes the case beyond those hardships ordinarily associated with deportation. *Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996). (Citations omitted).

The first step required to obtain a waiver is to establish that the applicant's U.S. citizen spouse would encounter extreme hardship if she remained in the United States while the applicant resided abroad due to his inadmissibility. To support this assertion, counsel states as follows:

...During their marriage and life together in the United States, [redacted] [the applicant's spouse] was a student at Riverside Community College and Emad [the applicant] worked as a senior manager at Pacific Stereo, at which position he earned \$70,000 per year. This position enabled him to support his wife and her continuing studies....

departure from the United States has deprived [redacted] of the support income that she has come to rely upon in order to pursue her studies. In fact, because this income has now disappeared, [redacted] has been forced to take a temporary leave of absence from school and has taken a job in Riverside to earn income to meet her expenditures and the costs involved in making these applications requesting permission for Emad to return to the United States.

It is currently unclear under what circumstances [REDACTED] will be able to resume her dream of a career in Psychology. In fact, it appears as though she will only be able to do so in the event of Emad's return since it is only under these circumstances that there would be sufficient income to merit [REDACTED] relinquishing her employment....

*Counsel's Statement of Facts*, dated July 27, 2004.

Courts considering the impact of financial detriment on a finding of extreme hardship have repeatedly held that, while it must be considered in the overall determination, "[e]conomic disadvantage alone does not constitute "extreme hardship." *Ramirez-Durazo v. INS*, 794 F.2d 491, 497 (9th Cir. 1986) (holding that "lower standard of living in Mexico and the difficulties of readjustment to that culture and environment . . . simply are not sufficient."); *Shoostary v. INS*, 39 F.3d 1049 (9th Cir. 1994) (stating, "the extreme hardship requirement . . . was not enacted to insure that the family members of excludable aliens fulfill their dreams or continue in the lives which they currently enjoy. The uprooting of family, the separation from friends, and other normal processes of readjustment to one's home country after having spent a number of years in the United States are not considered extreme, but represent the type of inconvenience and hardship experienced by the families of most aliens in the respondent's circumstances."); *Matter of Shaughnessy*, 12 I&N Dec. 810 (BIA 1968) (holding that separation of family members and financial difficulties alone do not establish extreme hardship); *INS v. Jong Ha Wang*, 450 U.S. 139 (1981) (upholding BIA finding that economic detriment alone is insufficient to establish extreme hardship).

In this case, counsel has provided no corroborating evidence that establishes the applicant's past financial contributions to the household, and thus has failed to show that the applicant's absence, and the subsequent loss of the applicant's income, has caused extreme financial hardship and academic disruption to the applicant's spouse. 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).

Moreover, it has not been established that the applicant's spouse is unable to obtain student loans, part-time employment and/or financial assistance from her extended family, which numbers over 80 people, thus **allowing her to continue her studies while supporting herself financially.** See *Letter from [REDACTED]* dated July 20, 2004. Finally, it has not been established that the applicant is unable to obtain gainful employment in Jordan, thereby providing the financial support that the applicant's spouse may require to be able to resume her studies. 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)). While the applicant's spouse may need to make alternate arrangements with respect to her finances and her academic studies, it has not been established that such alternate arrangements will cause the applicant's spouse extreme hardship.

The AAO notes that extreme hardship to a qualifying relative must also be established in the event that he or she relocates abroad to reside with the applicant based on the denial of the applicant's waiver request. As stated by the applicant's spouse,

...I am a native United States citizen. Other than short trips out of the United States and a 4 week trip to [REDACTED] following my husband's deportation, I have little or no experience of life outside of California.

I am glad however that I was able to travel to [REDACTED] since that trip, taken in 2003, has opened my eyes to the horrors and difficulties that I would face should I move their [sic] in the event that the I-601 waiver application is unsuccessful.

During my stay in Jordan, I was shocked and stunned by the lack of feminine emancipation among women in Jordan. It seemed to me that women did not pursue independence or careers since social mores requires that women stay at home to provide for their husbands and raise children. Women in [REDACTED] especially women there of my age, did not have the same hopes and dreams, or consider themselves to be facing the same issues that I face. They seemed to be contented with the prospect of raising children and being an honorable wife for the husbands. Of course, I would like the same, but my expectations go so much further: to pursuing a career, to be able to have my own friends and social schedule, to be able to choose the gender of my gynecologist, to be able to walk freely, in the clothes to which I am accustomed, either on my own, or with my family and friends. The structures of Jordanian society place an intolerable burden on my views and expectations of life.

Further, I was unable to remain healthy while I was in [REDACTED] I found that my stomach did not agree with the food there, and for the entire trip I was dehydrated, vomiting on a daily basis, weak and light-headed. I lost a considerable amount of weight. This illness, which could not be diagnosed by Jordanian doctors, gave me a valuable insight into the level of available daily healthcare in Jordan.... I found the level of care woeful when compared to the United States. The facilities themselves were dirty, I was not sure I was receiving the correct medications or treatment profiles. Further, I found that I was not a regular patient, but an object of interest and intrigue. I was unable to secure a female doctor to examine me.

All these factors suggest to me that it would be very difficult, if not traumatic and upsetting, for me to live in Jordan. I would have no choice but to forgo my career and my personal freedoms that I have grown accustomed to during my upbringing in California....

*Letter from [REDACTED] dated July 30, 2004.*

The U.S. Department of State outlines the following concerns, in pertinent part, with respect to country conditions in Jordan:

The threat of terrorism remains high in Jordan. Transnational terrorist groups, as well as less sophisticated local elements, have demonstrated the capability to pose threats in Jordan. The Al-Qaida in Iraq network in particular continues terrorist activities against U.S. and Government of Jordan (GOJ) targets in Jordan. The [REDACTED] in Iraq network claimed responsibility for the November 9, 2005 bombings of three international hotels in Amman, which killed 60 people and injured over 100. Pedestrian suicide bombers wearing explosive vests carried the bombs into the hotels. [REDACTED] in Iraq also claimed responsibility for the Aqaba rocket attacks on August 19, 2005 targeting a U.S. naval ship, which killed one Jordanian soldier and wounded another. The assassination of American diplomat [REDACTED] outside his west Amman residence on October 28, 2002 was also attributed to [REDACTED] in Iraq leader [REDACTED] i, who was killed in Iraq in June 2006. Numerous other terror plots have been foiled in recent years.

Terrorists often do not distinguish between U.S. government personnel and private citizens. Terrorists may target areas frequented by Westerners, such as tourist sites, hotels, restaurants, bars, nightclubs, liquor stores, shopping malls, transportation hubs, places of worship, expatriate residential areas, and schools.

Anti-American and anti-Western sentiment exists in Jordan and has been sparked on occasion by incidents in the region, particularly those related to Israeli/Palestinian issues and, to a lesser extent, Iraq. This may lead to random acts of violence against Westerners. On September 4, 2006, a gunman fired on foreigners at a popular tourist site in central Amman, killing one and injuring six. Travelers are advised to avoid any demonstrations or large gatherings of people. Many demonstrations occur near mosques after Friday prayers. Consequently, special sensitivity and caution should be exercised at or near mosques and religious sites during holy days and the Friday Muslim Sabbath. Demonstrations also often take place at universities and refugee camps.

U.S. citizens are advised to increase their vigilance as they approach the border area with Iraq. In October 2006, July 2005 and December 2004, Iraq-based terrorists targeted the Jordan/Iraq border crossing with vehicle bombs.

Western women both visiting and residing in Jordan report sexual harassment, stalking, and unwelcome advances of a sexual nature; there have been isolated reports of assault. Women are advised to take reasonable precautions including dressing conservatively, not traveling alone and avoiding travel at night to unfamiliar areas.

Basic modern medical care and medicines are available in the principal cities of Jordan, but not necessarily in outlying areas. Most hospitals in Jordan, especially in Amman, are privately owned. Doctors and hospitals often expect immediate cash payment for services. Because serious medical problems requiring hospitalization and/or medical evacuation to the United States could cost over \$150,000 U.S. dollars, we advise travelers to have medical evacuation insurance.

*Country Specific Information-Jordan, U.S. Department of State, Bureau of Consular Affairs, dated March 27, 2008.*

To further detail the hardships that women in particular face in Jordan, the AAO notes the following, as stated, in pertinent part, in the Country Reports on Human Rights Practices- Jordan,

Women experienced legal discrimination in pension and social security benefits, inheritance, divorce, ability to travel, child custody, citizenship, and in certain limited circumstances, the value of their Shari'a court testimony

Widespread violence and abuse against women continued, including honor crimes and spousal rape. In rural areas violence against women was reported more frequently than in major cities; however, women's rights activists speculated that many incidents in cities went unreported.

Although in recent years the government has taken steps to increase the resources available to help abused women, including opening a safe house for women, cultural norms continued to discourage victims from seeking medical or legal assistance. On January 17, Dar al-Wafaq, a government-run shelter for victims of domestic violence, opened with a capacity to support between 35 and 50 women. During the year this shelter assisted 290 women.

The government provided men with more generous social security benefits than women. The government continued pension payments of deceased male civil servants but discontinued payments of deceased female civil servants to their heirs. Laws and regulations governing health insurance for civil servants do not permit women to extend their health insurance coverage to dependents or spouses. However, divorced and widowed women may extend coverage to their children.

Under Shari'a as applied in the country...non-Muslim widows of Muslim spouses have no inheritance rights.... The existing permanent divorce law allows women to seek divorces and retain their financial rights only under specific circumstances, such as spousal abuse. In these cases the woman has the burden of proof. Special courts for each denomination adjudicate marriage and divorce matters for Christians.

The law states that women have the right to obtain passports without the written permission of their husbands, although in practice the husband's permission is often

required. Married women do not have the legal right to transmit citizenship to their children; however, female citizens married to noncitizen men can pass citizenship to their children upon the permission of the council of ministers.

Civil law grants women equal pay for equal work; however, in practice this was not consistently enforced. Traditional social pressures discouraged many women from pursuing professional careers, especially after marriage. At year's end the unemployment rate for women was 31 percent, compared to 14.3 for the country as a whole.

*Country Reports on Human Rights Practices - Jordan, Released by the Bureau of Democracy, Human Rights, and Labor, dated March 11, 2008.*

Based on the concerns outlined above by the applicant's spouse with respect to her own safety as a U.S. born, non-Muslim woman in Jordan, the substandard medical care in Jordan which she personally encountered while visiting Jordan, a lengthy separation from her extended family, long-term disruption of her academic studies, and complete unfamiliarity with the country and its culture, religion, language and customs, the AAO concludes that the applicant's spouse would face hardship beyond that normally expected of one facing relocation abroad based on the removal of a spouse if she were to live with him in Jordan.

A review of the documentation in the record, when considered in its totality, reflects that although the applicant has established that his U.S. citizen spouse would suffer extreme hardship were she to reside in Jordan, the applicant has failed to show that his U.S. citizen spouse would suffer extreme hardship if he were not permitted to return to the United States for ten years from his last departure in 2003. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether the applicant merits a waiver as a matter of discretion. In addition, as the instant waiver application is denied, the Form I-212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal (Form I-212) is not approvable as there would be no purpose in granting permission to reapply since the applicant has been found to be otherwise inadmissible.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(9)(B)(v) 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. The waiver application is denied.