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U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
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U.S. Citizenship  
and Immigration  
Services

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FILE:



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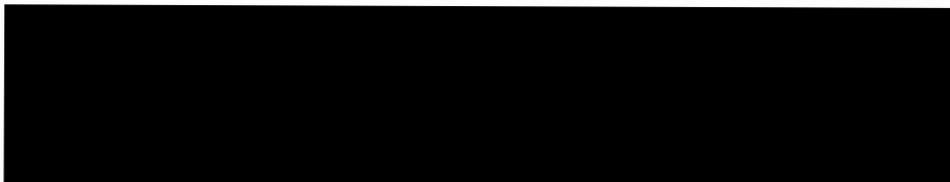
IN RE:



APPLICATION:

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

ON BEHALF OF PETITIONER:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. 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 \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom, Acting Chief  
Administrative Appeals Office

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

The applicant is a native and citizen of the United Kingdom who was found to be inadmissible to the United States under sections 212(a)(9)(B)(i)(II) and 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1182(a)(9)(B)(i)(II) and 1182(a)(6)(C)(i), for having been unlawfully present in the United States for one year or more and having procured admission to the United States through misrepresentation of a material fact. The applicant is the fiancé of a U.S. Citizen and the beneficiary of an approved Petition for Alien Fiancé(e). He seeks a waiver of inadmissibility pursuant to sections 212(a)(9)(B)(v) and 212(i) of the Act, 8 U.S.C. §§ 1182(a)(9)(B)(v) and 1182(i), so that he may return to the United States and reside with his fiancée and daughter.

The 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 Officer in Charge* dated March 16, 2007.

On appeal, the applicant asserts that U.S. Citizenship and Immigration Services (USCIS) relied upon incorrect entry dates and lengths of overstay in the decision denying the waiver application and also inappropriately applied case law and disregarded hardship to their minor child. *See Notice of Appeal to AAO (Form I-290B)*. The applicant claims that his fiancée would suffer extreme hardship if she relocated to Northern Ireland because her former husband would not allow her then minor son to obtain a passport and travel there. *See Statement in Support of Appeal* at Paragraph 9. He further states that his fiancée would suffer hardship due to conditions in Northern Ireland, including sectarian attacks on interfaith couples and other social problems such as alcohol abuse among young children. *Statement in Support of Appeal* at Paragraph 10. The applicant asserts that his fiancée has no family ties to Ireland or the United Kingdom and would suffer hardship due to separation from her relatives in the United States, who would not have the financial resources to travel and visit her. *See Statement in Support of Appeal* at Paragraph 11. The applicant additionally asserts that his fiancée would suffer other hardships in Northern Ireland such as lack of access to adequate medical care and inability to find employment comparable to her employment in the United States, and claims that this might violate Article 25 of the U.N. Charter for Human Rights, which provides for an adequate standard of living, as well as the Americans with Disabilities Act (ADA), though it is not specified how the ADA would be violated. *See Statement in Support of Appeal* at Paragraphs 14-15. In support of the waiver application and appeal the applicant submitted the following documentation: copies of the applicant's fiancée's divorce decree and a subsequent modified decree, an affidavit from the applicant, affidavits from the applicant's fiancée and her daughter and mother, documentation of air travel from Boston to Des Moines Iowa for the applicant's fiancée from 2004 to 2006, copies of newspaper articles and other information related to conditions in Ireland and Northern Ireland, family photographs, a copy of a lease for an apartment in Quincy, Massachusetts signed on July 28, 2004, a letter from a chiropractor concerning the mother of the applicant's fiancée, and copies of degrees and registration certificates for the applicant's fiancée. The entire record was reviewed and considered in rendering a decision on the appeal.

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

- (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.
  
- (v) Waiver. – The Attorney General [now Secretary, 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.

Section 212(a)(6)(C) of the Act 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.

Section 212(i) of the Act provides:

- (I) The [Secretary] may, in the discretion of the [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 [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 contains references to hardship the applicant's child would experience if the waiver application were denied. It is noted that Congress did not include hardship to an alien's children as a factor to be considered in assessing extreme hardship. In the present case, the applicant's spouse is the only qualifying relative for the waivers under sections 212(a)(9)(B)(v) and 212(i) of the Act, and hardship to the applicant's children will not be separately considered, except as it may affect the applicant's spouse. Sections 212(i) and 212(a)(9)(B)(v) of the Act provide that a waiver of a bar to admission is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member. Once extreme hardship is established, it is but one favorable factor to be considered

in the determination of whether the Secretary should exercise discretion. *See Matter of Mendez*, 21 I&N Dec. 296 (BIA 1996).

In *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560 (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. These factors included 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.

U.S. court decisions have additionally held that the common results of deportation or exclusion are insufficient to prove extreme hardship. *See Hassan v. INS*, 927 F.2d 465, 468 (9<sup>th</sup> Cir. 1991). For example, in *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), the BIA held that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship. In addition, in *Perez v. INS*, 96 F.3d 390 (9<sup>th</sup> Cir. 1996), the court held that the common results of deportation are insufficient to prove extreme hardship and defined "extreme hardship" as hardship that was unusual or beyond that which would normally be expected upon deportation. Moreover, the U.S. Supreme Court additionally held in *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship.

In the present case, the record reflects that the applicant is a thirty-seven year-old native and citizen of the United Kingdom who resided in the United States from February 2000, when he entered as a visitor under the visa waiver program, to September 6, 2005, when he was removed from the United States. The applicant further states that prior to his last entry under the Visa Waiver Program, he had entered as a visitor and overstayed his period of authorized stay and had violated his status by working, and had failed to disclose these previous violations when again seeking admission under the Visa Waiver Program. The applicant is therefore inadmissible under section 212(a)(6)(C)(i) of the Act for procuring admission to the United States through misrepresentation of a material fact in addition to being inadmissible under section 212(a)(9)(B)(i)(II) of the Act. The applicant's fiancée is a forty-two year-old native and citizen of the United States. At the time the appeal was filed, the applicant resided in County Tyrone, Northern Ireland and his fiancée resided in Clare, Iowa with their daughter.

The applicant asserts that his fiancée would suffer extreme hardship if she relocated to Northern Ireland because she would be unable to find employment comparable to her employment in the United States and would be denied access to adequate medical care. The applicant's fiancée further states that she would lose many of the benefits and opportunities she has in the United States because unemployment is high there and health care is not the same as in the United States. *See Affidavit of* [REDACTED] dated July 6, 2006. She further states that she would not want to live there due to the unstable political situation and outbreaks of sectarian violence, and believes that she and the applicant would be a target for sectarian attacks because she is Protestant and the applicant is Catholic. *See Affidavit of* [REDACTED]. In support of these assertions the applicant submitted

various articles concerning political disputes surrounding the peace process and crimes committed by member of the Irish Republican Army and paramilitary groups. The applicant also submitted several articles concerning medical care and social problems in the Republic of Ireland, but these are not relevant to determining hardship to the applicant's fiancée in Northern Ireland or any other part of the United Kingdom. The documentation submitted describes sectarian riots occurring in September 2005 and paramilitary activities and also includes newspaper opinion columns concerning the peace process in Northern Ireland and information from the website of the Alliance Party of Northern Ireland, a political party. The AAO notes that much of the documentation submitted does not contain objective information, but rather opinions on the political situation in Northern Ireland.

The objective information on conditions in Northern Ireland submitted by the applicant concerns sectarian riots in 2005 and other disputes surrounding the ongoing peace process, efforts to increase the percentage of Catholic police officers and staff in the Police Service of Northern Ireland, surveys aimed at better measuring the rate of poverty in Northern Ireland and indicating that poverty rates are higher there than in other parts of Great Britain, social problems such as alcohol abuse in young children, and the quality of dental care in Northern Ireland. This information is insufficient to establish that the economic, political, and social conditions in Northern Ireland would result in extreme hardship to the applicant's fiancée if she were to relocate there, and no objective information was submitted to support an assertion that the applicant's fiancée would be unable to find employment in Northern Ireland, either in her own field or in another area, or be denied access to adequate medical care. Further, neither the applicant nor his fiancée made any claim that they would be unable to relocate to another part of the United Kingdom, and no information was submitted concerning conditions in other parts of the United Kingdom.

The applicant's fiancée further states that she would suffer emotional hardship if she relocated to Northern Ireland because she would be separated from her two children, who would be unable to obtain passports and travel there because their father would not allow them to. *See Affidavit of [REDACTED]; Declaration of [REDACTED] dated April 5, 2007.* In support of these assertions the applicant's fiancée submitted a declaration from her daughter and copies of her divorce decree and modified divorce decree. **The AAO notes that although the divorce decree indicates that the applicant's fiancée and her former husband shared custody of their two children and her daughter states that their father has not permitted them to travel outside the United States, her children are now eighteen and twenty years old, and are therefore able to obtain passports and visit their mother if she were to relocate. Further, the record indicates that the applicant's fiancée voluntarily lived apart from her two older children from September 2003 to October 2005, when she relocated to Massachusetts and the children remained in Iowa with their father. *See Affidavit of [REDACTED].* This undermines a claim that living apart from her children would result in extreme emotional hardship to the applicant's fiancée now that they have both reached the age of majority and would be able to travel and visit her in the United Kingdom.**

The applicant's fiancée also states that she would face emotional hardship due to separation from her other family member in the United States, including her mother and stepfather, who suffer from various medical conditions, including diabetes and high blood pressure. *See Affidavit of [REDACTED]* The applicant's fiancée claims that her mother is unable to travel because of her medical condition, and separation from her and her inability to care for her mother and stepfather and

provide the support they need would cause her emotional hardship. Significant conditions of health of a close relative of a qualifying relative can be relevant factors in establishing emotional hardship to the qualifying relative. The evidence on the record does not establish, however, that the applicant's fiancée's mother's suffers from such a condition. The applicant did not submit any medical evidence to support this claim except for a letter from a chiropractor stating that he is the primary care physician of the applicant's fiancée's mother and that she suffers from high blood pressure and diabetes and is unable to travel due to the risk of deep vein thrombosis. *See letter from [REDACTED]*, dated June 27, 2006. Although he may be familiar with certain conditions requiring treatment at his practice, the chiropractor treating the applicant's fiancée's mother is not a medical doctor, and his statement regarding her medical condition is of limited probative value. Without more detailed information, such as a letter from the treating physician explaining the nature and long-term prognosis of any medical condition and any treatment and medication needed, the AAO is not in the position to reach conclusions concerning the severity of a medical condition or the treatment and assistance needed.

The evidence on the record is insufficient to establish that relocating to Northern Ireland would result in emotional, financial, or other hardship that in the aggregate would amount to extreme hardship beyond the common results of inadmissibility or deportation for the applicant's fiancée. As noted above, the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship. *See INS v. Jong Ha Wang*, 450 U.S. 139 (1981); *Matter of Shaughnessy*, 12 I&N Dec. 810 (BIA 1968) (stating that separation of family members and financial difficulties alone do not establish extreme hardship). Further, much of the claim of hardship relates to conditions in Northern Ireland, and there is no claim made concerning hardship that would result if the applicant and his fiancée were to relocate to another part of the United Kingdom nor explanation provided as to why such relocation would not be possible.

The applicant additionally asserts that his fiancée would experience extreme emotional and financial hardship if the applicant were denied admission and she remained in the United States. The applicant's fiancée states that separation from the applicant would be more than she could endure and that she relies on him greatly and has suffered since his removal from the United States. *See Affidavit of [REDACTED]*. She further states that her children and in particular her daughter with the applicant have suffered hardship from being separated from the applicant, and their daughter "may be denied a real and lasting relationship with her father." *Id.* The evidence on the record does not establish, however, that any emotional difficulties the applicant's fiancée would experience are more serious than the type of hardship a family member would normally suffer when faced with the prospect of a close relative's deportation or exclusion. Although the depth of her distress caused by the prospect of being separated from her fiancé is not in question, a waiver of inadmissibility is only available where the resulting hardship would be unusual or beyond that which would normally be expected upon deportation or exclusion. The prospect of separation or involuntary relocation nearly always results in considerable hardship to individuals and families. But 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 exists.

The applicant also asserts that his fiancée is suffering financial hardship due to loss of his income since his removal from the United States. The applicant's fiancée states that she could not afford to

remain in Massachusetts once the applicant was removed and she returned to Iowa to reside with her mother. She further states that she cannot find a position in her field in Iowa and continues to work as a medical technologist for her employer in Massachusetts by performing her work online and traveling there for meetings. *See Affidavit of [REDACTED]*. No documentation was submitted with the waiver application or appeal to document the income of the applicant when he resided in the United States or that of his fiancée, and no evidence of her expenses or overall financial situation was submitted. 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)). Further, there is no indication that there are any ongoing unusual circumstances that would cause financial hardship beyond what would normally be expected as a result of separation from the applicant. Any financial impact of the loss of the applicant's income therefore appears to be a common result of exclusion or deportation, and would not rise to the level of extreme hardship for the applicant's fiancée. *See INS v. Jong Ha Wang, supra* (holding that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship).

The record reviewed in its entirety does not support a finding that the applicant's fiancée faces extreme hardship if the applicant is refused admission to the United States. Rather, the record demonstrates that she will face no greater hardship than the unfortunate, but expected disruptions, inconveniences, and difficulties arising whenever a spouse is removed from the United States. U.S. court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. *See Perez v. INS*, 96 F.3d 390 (9<sup>th</sup> Cir. 1996) (defining "extreme hardship" as hardship that was unusual or beyond that which would normally be expected upon deportation); *Hassan v. INS*, 927 F.2d 465, 468 (9<sup>th</sup> Cir. 1991); *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996) (holding that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship).

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 U.S. citizen fiancée as required under sections 212(a)(9)(B)(v) and 212(i) of the Act.

In proceedings for application for waivers of grounds of inadmissibility under sections 212(a)(9)(B)(v) and 212(i) 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.