

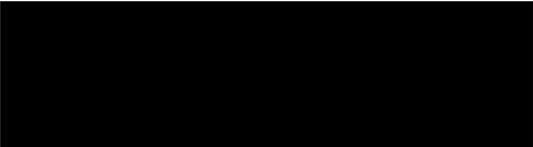
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



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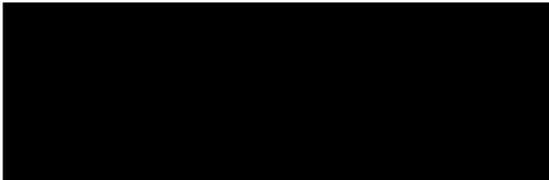
H5

FILE: [REDACTED] Office: PHILADELPHIA, PA Date: APR 05 2010

IN RE: [REDACTED]

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

Perry Rhew  
Chief, Administrative Appeals Office

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

The applicant is a native and citizen of Pakistan who has resided in the United States since February 10, 1991, when he was admitted after presenting a passport and seaman's book belonging to another individual. He was found to be inadmissible to the United States 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 misrepresentation of a material fact. The applicant is married to a U.S. citizen and is the beneficiary of an approved Petition for Alien Relative. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with his wife and son.

The district director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the application accordingly. *See Decision of the District Director* dated July 18, 2007.

On appeal, counsel for the applicant asserts that U.S. Citizenship and Immigration Services (USCIS) erred in denying the waiver application and failed to give sufficient weight to the facts presented. Specifically counsel states that the applicant's wife would be unable to continue providing care and emotional support to her ailing father if she relocated to Pakistan and would lose the emotional support provided by the applicant if he were removed and she remained in the United States. *Brief in Support of Appeal* at 2-3. Counsel further claims that the applicant's wife would suffer hardship in Pakistan due to poor conditions and lack of adequate medical care, danger due to the threat of terrorist attacks targeting U.S. citizens, and threats made by her former husband, who currently resides in the same village where the applicant's family resides. *Brief* at 3-4. Counsel further maintains that even if she remains in the United States without the applicant, his wife would suffer emotional distress worrying that her former husband would harm the applicant if he learned of their marriage. *Brief* at 4. Counsel asserts that in addition to emotional hardship resulting from separation from her husband, the applicant's wife would suffer financial hardship due to loss of his income if she remained in the United States without him. *Brief* at 7. In support of the waiver application and appeal, counsel submitted affidavits from the applicant and his wife, a copy of their son's birth certificate, information on conditions in Pakistan, and medical records for the applicant's wife and her father. The entire record was reviewed and considered in arriving at a decision on the appeal.

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:

- (1) 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.

Section 212(i) of the Act provides that a waiver of the 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. In *Matter of Shaughnessy*, 12 I&N Dec. 810 (BIA 1968), the BIA held that separation of family members and financial difficulties alone do not establish extreme hardship. Moreover, the U.S. Supreme Court 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 forty-five year-old native and citizen of Pakistan who has resided in the United States since February 10, 1991, when he was admitted after presenting a passport and seaman's book belonging to another individual. The applicant married his wife, a thirty-five year-old native and citizen of the United States, on November 13, 2001. The applicant and his wife reside in Harrisburg, Pennsylvania with their son.

Counsel asserts that the applicant's wife would face dangerous conditions in Pakistan and would not have access to adequate medical care, and the applicant's wife states that she would suffer extreme hardship in Pakistan because of her medical conditions, including diabetes, high blood pressure, and

high cholesterol. *Declaration of* [REDACTED] She further states that she would be in danger because her former husband resides in the same village as the applicant's family and stated that if she married another Pakistani man he would kill him. *Declaration of* [REDACTED] She additionally states that she would have difficulty there because of the cultural and linguistic differences and because she would be separated from her father, who suffers from various medical conditions and has had surgery for cancer.

The AAO takes notice of a recent Travel Warning issued by the Bureau of Consular Affairs of the U.S. Department of State. The warning states:

The U.S. State Department is warning U.S. citizens of the risks of travel to Pakistan. This Warning replaces the Travel Warning dated June 12, 2009, and updates information on security incidents and reminds U.S. citizens of ongoing security concerns in Pakistan. Pakistani military forces have engaged in a campaign against violent extremist elements across many areas of the Federally Administered Tribal Areas (FATA) and parts of the North-West Frontier Province (NWFP). Terrorists blame the Pakistani and the U.S. governments for the military pressure on their traditional havens and the death of Tehrik-e-Taliban Pakistan (TTP) leader Baitullah Mehsud in NWFP in August 2009. In response, militants are seeking to increase their attacks on civilian, government, and foreign targets in Pakistan's cities.

The presence of Al-Qaida, Taliban elements and indigenous militant sectarian groups poses a potential danger to American citizens throughout Pakistan, especially in the western border regions of the country. Flare-ups of tensions and violence in the many areas of the world also increase the possibility of violence against Westerners. Terrorists and their sympathizers regularly attack civilian, government, and foreign targets, particularly in the NWFP. . . . *U.S. Department of State, Travel Warning – Pakistan, January 7, 2010.*

The AAO finds that the applicant's wife would suffer extreme hardship if she relocated to Pakistan due to her lack of ties to the country, difficulty adjusting to conditions there, separation from family members in the United States, and dangerous conditions that put U.S. citizens at risk throughout the country.

Counsel for the applicant asserts that the applicant's wife would suffer extreme emotional hardship if she were separated from the applicant and had to raise their son, who was born in 2009, on her own, and would also experience distress because of concerns her former husband would harm the applicant. The applicant's wife states that her former husband stated that if she married another Pakistani man he would kill him. *Declaration of* [REDACTED] The assertions of the applicant's spouse are relevant evidence and have been considered. However, absent supporting documentation, the assertions concerning her former spouse cannot be given great weight. *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.").

Evidence on the record indicates that the applicant's wife's father suffers from various medical conditions and he and the applicant's wife are very close. The applicant's wife has resided in Pennsylvania since 2001 and her father resides in California, and it therefore appears she does not provide him with assistance or support on a daily basis. There is no indication that she could not continue to communicate with her father and provide him with emotional support if the applicant were removed and she remained in the United States.

The applicant's wife states that the applicant is very important to her and she loves him and cannot explain how much he means to her. The evidence on the record does not establish, however, that any emotional difficulties the applicant's wife would experience are more serious than the type of hardship a family member would normally suffer when faced with the prospect of her spouse's deportation or exclusion. Although the depth of her distress caused by the prospect of being separated from her husband is not in question, a waiver of inadmissibility is available only 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's wife states in her declaration that she relies on the applicant for assistance due to her medical conditions, including diabetes, high blood pressure, and high cholesterol, and that his income helps pay for the medication she needs to take on a daily basis. *Declaration of* [REDACTED] In support of this assertion counsel submitted a letter from the applicant's wife's physician's office stating that she suffers from these chronic conditions, regularly takes medication, and requires follow-up and specialized care that would likely be unavailable in Pakistan. *Letter from* [REDACTED] dated August 10, 2005. 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. The evidence on the record is insufficient to establish, however, that the applicant's wife's condition is so serious that she would suffer extreme hardship if she were to remain in the United States without the applicant. The record establishes that she suffers from various chronic conditions that require medication and close follow-up, but there is no indication that she is unable to work and support herself and the record indicates that she has worked for the U.S. Postal Service since 2001 and until 2005 supported the applicant financially. The evidence on the record is insufficient to establish that the applicant's wife suffers from a serious medical condition that would result in extreme physical or financial hardship if the applicant were removed from the United States. Any financial impact of the loss of the applicant's income or assistance 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 wife. *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 emotional and financial hardship the applicant's wife would experience if he is removed and she remains in the United States appears to be the type of hardship that a family member would normally suffer as a result of deportation or exclusion. 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 any 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 spouse as required under section 212(i) of the Act.

In proceedings for application for waiver of grounds of inadmissibility under section 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.