

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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



U.S. Citizenship and Immigration Services

**PUBLIC COPY**

45



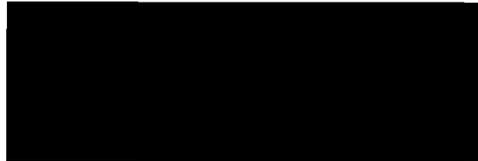
DATE: **DEC 14 2011** OFFICE: LOS ANGELES, CALIFORNIA

File:

IN RE: Applicant:

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 APPLICANT:



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 law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

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

The applicant is a native and citizen of Armenia who 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 seeking to procure a visa, other documentation, or admission into the United States or other benefit provided under the Act by fraud or willful misrepresentation. 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.

The Field Office Director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. See *Decision of the Field Office Director*, dated April 23, 2008.

The record includes, but is not limited to: Form I-290B; Forms I-601, I-485 and a letter denying both; hardship letter from the applicant's husband; letters from the applicant and her husband's father, brother, and a friend; pregnancy confirmation letter; marriage and birth records; tax returns for 2003-2006; mortgage, auto loan, and wireless phone statements; copies of credit cards; family photos; and the applicant's sworn statement concerning her unlawful entry. The entire record was reviewed and considered in rendering this decision on the appeal.<sup>1</sup>

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

- (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

The record reflects that the applicant entered the United States with the Russian passport and U.S. visa of another individual on or about January 16, 2002. The applicant was found to be inadmissible under section 212(a)(6)(C)(i) of the Act, 8 USC § 1182(a)(6)(C)(i). The applicant does not contest these findings on appeal.

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

- (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an

---

<sup>1</sup> Counsel for the applicant indicated on the Form I-290B that a brief and/or evidence would be submitted to this office within 30 days of filing the appeal. No such brief or evidence appears in the record. Counsel was contacted by this office on October 27, 2011 and a copy of the brief and/or additional evidence was requested. Counsel did not respond to this request.

alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

A waiver of inadmissibility under section 212(i) of the Act is dependent on a showing that the bar to admission imposes extreme hardship on a qualifying relative, which includes the U.S. citizen or lawfully resident spouse or parent of the applicant. Hardship to the applicant or his children can be considered only insofar as it results in hardship to a qualifying relative. In the present case, the applicant's husband is the only qualifying relative. If extreme hardship to a qualifying relative is established, the applicant is statutorily eligible for a waiver, and USCIS then assesses whether a favorable exercise of discretion is warranted. See *Matter of Mendez-Moralez*, 21 I&N Dec. 296, 301 (BIA 1996).

Extreme hardship is "not a definable term of fixed and inflexible content or meaning," but "necessarily depends upon the facts and circumstances peculiar to each case." *Matter of Hwang*, 10 I&N Dec. 448, 451 (BIA 1964). In *Matter of Cervantes-Gonzalez*, the Board provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship to a qualifying relative. 22 I&N Dec. 560, 565 (BIA 1999). The factors include the presence of a lawful permanent resident or United States citizen spouse or parent in this country; the qualifying relative's family ties outside the United States; the conditions in the country or countries to which the qualifying relative would relocate and the extent of the qualifying relative's ties in such countries; the financial impact of departure from this country; and significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate. *Id.* The Board added that not all of the foregoing factors need be analyzed in any given case and emphasized that the list of factors was not exclusive. *Id.* at 566.

The Board has also held that the common or typical results of removal and inadmissibility do not constitute extreme hardship, and has listed certain individual hardship factors considered common rather than extreme. These factors include: economic disadvantage, loss of current employment, inability to maintain one's present standard of living, inability to pursue a chosen profession, separation from family members, severing community ties, cultural readjustment after living in the United States for many years, cultural adjustment of qualifying relatives who have never lived outside the United States, inferior economic and educational opportunities in the foreign country, or inferior medical facilities in the foreign country. See generally *Matter of Cervantes-Gonzalez*, 22 I&N Dec. at 568; *Matter of Pilch*, 21 I&N Dec. 627, 632-33 (BIA 1996); *Matter of Ige*, 20 I&N Dec. 880, 883 (BIA 1994); *Matter of Ngai*, 19 I&N Dec. 245, 246-47 (Comm'r 1984); *Matter of Kim*, 15 I&N Dec. 88, 89-90 (BIA 1974); *Matter of Shaughnessy*, 12 I&N Dec. 810, 813 (BIA 1968).

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 at 1293 (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.

The record reflects that the applicant’s spouse is a 39 year old native of Armenia and citizen of the United States. He states that “at first” the applicant was promised a “legal” U.S. visa by someone to whom she “had to pay a pretty large sum.” *See Hardship Letter*, dated May 8, 2007. The applicant’s husband states that this person later told his wife that a legal visa was impossible but he would provide another individual’s passport with which she could use to enter the U.S. *Id.* The applicant asserts that after graduating college at 18 years of age she went to the U.S. embassy to apply for a visa, but her application was denied. *Applicant’s Letter*, dated May 2007. She states that at 21 years of age her uncle introduced her to the man who “promised to legally transport” her to the U.S., and that the man was successful in “convincing me that there was nothing bad about doing it, and that I’m not the first and last person that has been sent to the U.S. this way.” *Id.* The applicant’s spouse states that when his wife remembers this story her voice trembles, her eyes and palms get wet, and this makes him think that her earlier infertility problems were a result of anxiety and fear. *See Hardship Letter*, dated May 8, 2007. Though the applicant’s spouse states that USCIS “can contact our infertility specialist,” the record contains no medical evidence of infertility or infertility treatment. Regarding separation-related hardship the applicant’s spouse states that (at the writing of his letter), his wife is pregnant, they are “trying to build a nest and live happy” with their future child, and he hopes USCIS will forgive his wife and not segregate their family. *Id.* The applicant submits a short [REDACTED] dated April 11, 2007, which asserts that she “is under the care of [REDACTED] for her pregnancy and her expected date of delivery is [REDACTED].” The record contains no additional medical evidence with regard to the applicant’s pregnancy or subsequent delivery, nor does it contain a birth certificate for any child(ren) born to her despite the appeal being filed in May 2008.

The applicant has submitted a *Letter from the Applicant's Spouse's Father*, dated May 8, 2007. Therein [REDACTED] asserts that the applicant is "the heart" of the family, helps his son "support my wife and me," and that both he and his wife "are disabled and need their help to live and get by." *Id.* The record contains no medical evidence of any disability affecting the applicant's spouse's mother or father or documentary evidence that the applicant "supports" her in-laws. [REDACTED] asserts that the applicant "takes care of us as far as cooking our food, cleaning and taking care of us," and that she "is a great daughter in law and wife to my son." *Id.* The applicant has submitted a *Psychologist's Letter*, dated July 5, 2007. Therein [REDACTED] asserts that the applicant and her spouse live with her husband's parents. *Id.* [REDACTED] asserts that although his mother and father receive "some small benefit payments," the applicant's spouse "is the main source for his parents' financial sustenance." *Id.* The record contains no income evidence or financial records pertaining to the applicant's in-laws. As the assertions of [REDACTED] are based on self-reporting, and as no objective evidence has been submitted with regard to medical or financial hardships to the applicant's in-laws extending to her qualifying relative spouse, the AAO will not speculate in this regard.

[REDACTED] asserts that he interviewed the applicant and her spouse for a total of two hours. See *Psychologist's Letter*, dated July 5, 2007. [REDACTED] asserts that the applicant's spouse "does not currently display marked levels of psychological disturbance, other than moderate signs of stress that are generated by this case." *Id.* [REDACTED] worries, however, about "psychological damage" to the applicant's spouse should he face the "lose-lose" decision between separation from his wife and then-unborn child or relocation to Armenia and leaving his parents and business behind. *Id.* [REDACTED] asserts that when "even psychologically healthy individuals are forced to solve an unsolvable life riddle that generates chronic stress, guilt, pressure, longing, and anxiety, psychological decompensation and a diagnosable mental illness are the result." *Id.* [REDACTED] does not address the "diagnosable mental illness" to which he refers. The AAO has considered [REDACTED] letter, but the record does not establish that the applicant's spouse's psychological difficulties go beyond the normal hardships associated with the removability or inadmissibility of a family member. Given the evaluation is based on self-reporting by the applicant's spouse and considering [REDACTED] statement that the applicant's spouse does not display psychological disturbance other than moderate signs of stress, there is insufficient evidence to establish that the applicant's spouse would suffer significant psychological hardship in the event of separation.

The AAO acknowledges that separation from the applicant may cause various difficulties for the applicant's spouse. The difficulties described, however, do not take the present case beyond those hardships ordinarily associated with removal of a family member, and the evidence in the record is insufficient to demonstrate that the challenges to the qualifying relative, when considered cumulatively, meet the extreme hardship standard.

With regard to relocation, [REDACTED] asserts that the applicant's spouse "can only support his wife, child-to-be-born, and his parents, if he remains in America." See *Psychologist's Letter*, dated July 5, 2007. He asserts that the applicant's spouse's [REDACTED] "cannot be replicated in Armenia" and the economy is "horribly depressed with no market for artwork, especially original art." *Id.* [REDACTED] relays from the applicant's spouse that there is much corruption in Armenia, and bribery drives business ventures which are only successful when money lands in the hands of

the right government officials. *Id.* While [REDACTED] reaches conclusions based on country conditions in Armenia, he has not provided any documentation to establish himself as an expert on the economy and/or living conditions in Armenia. The record contains no country conditions evidence for Armenia and the AAO will not speculate with regard to the country's economic situation or whether the applicant's spouse would be successful in operating a business therein. [REDACTED] asserts that in Armenia, the applicant's child (yet unborn at the time of his July 5, 2007 letter), "will live in a society where medical care is only obtained if families are wealthy..." and where "the educational system is staffed by teachers who are barely paid a subsistence wage." *Id.* The record contains no country conditions evidence addressing medical care or education in Armenia and the AAO will not speculate in this regard. [REDACTED] asserts that the applicant's spouse told him: "If I lived in Armenia, I could no longer afford to support my parents. I would struggle to find a way to afford food and shelter for my wife and child." *Id.* No documentary evidence has been submitted in support of these assertions. Going on record without supporting documentation is not sufficient to meet the applicant's burden of proof in this proceeding. *See 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)).

The AAO has considered cumulatively all assertions of hardship related to relocation, including that the applicant's spouse would have to readjust to a country he has not lived in for many years, his significant family ties to the United States, community ties, home and business ownership in the U.S., and psychological, economic, medical, and educational prospects in Armenia as presented. Considered in the aggregate, the AAO finds that the evidence is insufficient to demonstrate that the applicant's U.S. citizen spouse would suffer extreme hardship were he to relocate to Armenia to be with the applicant.

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 spouse as required under section 212(i) of the Act. As the applicant has not established extreme hardship to a qualifying family member no purpose would be served in determining whether the applicant merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under sections 212(i) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* Section 291 of the Act, 8 U.S.C. § 1361. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.