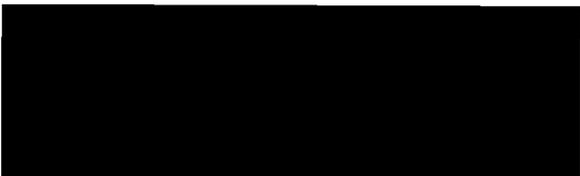


identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy  
PUBLIC COPY

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



#5



DATE: APR 10 2012 OFFICE: PANAMA CITY, PANAMA FILE: [REDACTED]

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 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 Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601) was denied by the Field Office Director, Panama City, Panama, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Colombia who was found to be inadmissible to the United States pursuant to 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 admission into the United States by willfully misrepresenting a material fact. The applicant's mother is a naturalized U.S. citizen, and the applicant is the beneficiary of an approved Form I-130, Petition for Alien Relative. She seeks a waiver of her ground of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to live in the United States with her U.S. citizen mother.

In a decision dated November 2, 2009, the Field Office Director determined the applicant had failed to establish that her mother would experience extreme hardship if she were denied admission into the United States. The waiver application was denied accordingly.

Through counsel, the applicant asserts on appeal that her mother will experience extreme emotional, physical, and financial hardship if she is denied admission into the United States. In support of these assertions, counsel submits letters from the applicant, her mother, family members and friends; a police report; newspaper articles; and medical and psychological evaluation documentation. The entire record was reviewed and considered in rendering a decision on the appeal.

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 on December 3, 1996, the applicant told U.S. immigration officers at the Miami, Florida airport that she planned to stay at a hotel and visit friends and family in the U.S., when her actual intent was to join her mother, study and seek employment in the U.S. The applicant additionally admitted to immigration officers that she knowingly lied on her visitor visa application regarding her intended stay in the U.S. The applicant is therefore inadmissible under section 212(a)(6)(C)(i) of the Act. Counsel does not contest the applicant's inadmissibility under this section of the Act.

Section 212(i) of the Act provides that:

- (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).

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*, 22 I.&N. Dec. 560, 565 (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. *Id.* The BIA 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 BIA 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, supra* 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 BIA 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 applicant's qualifying family member is her mother, a naturalized U.S. citizen.

A letter from the applicant, submitted with her 2008 initial waiver application, states that she is her mother's only single daughter, that her mother is alone in the U.S., and that her mother suffers from heart and emotional problems. In her 2008 letter, the applicant's mother states that the applicant is the only single daughter that she has, and that she misses her very much. The applicant's mother states that in December 1997, she was hospitalized in Florida for problems with her nervous system, and that she has been in medical consultation for nervousness and depression. The applicant's mother additionally states that she travels to Colombia often to see the applicant, but that the cost of tickets keeps her from visiting as often as she would like, and she states that due to her age she would not find work in Colombia.

In a second letter submitted on appeal, the applicant's mother states that she has another daughter that lives in the U.S. but that her other daughter is busy with her own family. She states that she has traveled to Colombia to visit the applicant, but that bad things happen every time she goes to Colombia. Their apartment was burglarized and a two-hour shoot-out occurred in a town she visited in 1998. She was not injured, but both events caused her anxiety about being in Colombia. Additionally, in 2009 her son-in-law's parents were murdered in Colombia. This event has caused her further anxiety and depression with regard to the thought of living in Colombia. The applicant's mother indicates that she needs the applicant in the U.S. to support and assist her. She indicates further that due to her anxiety about going to Colombia, she fears she will be permanently separated from the applicant if she is denied admission into the U.S.

The applicant asserts in a second letter submitted on appeal that her mother left the U.S. in 2007 and lived with her in Colombia until August 2009, when the murder of the applicant's brother-in-law's parents affected her mother to the extent that she no longer felt secure, and she returned to the U.S. The applicant states that her mother needs her emotional and familial support in the U.S.

The applicant's sister who lives in Saudi Arabia, states in a letter that the events her mother experienced in Colombia were very stressful, and that her mother does not feel safe living in Colombia. A letter from the applicant's brother-in-law in Tennessee states his parents were killed in Colombia on May 22, 2009, that Colombia is a dangerous place, and that his parents' death affected his immediate and extended family deeply. Other letters from friends attest to the applicant's mother's stress and depression over the applicant's situation. The record additionally contains a letter from a general practitioner in Colombia stating that he has treated the applicant's mother since 2002, that she reports feeling uneasy and insecure in Colombia, and that she has anxiety and

insomnia. Medical evidence reflects the applicant's mother has hyperlipidemia and anxiety related to familial stressors.

A December 1998 police report from the Bogota, Colombia police department confirms that the applicant's apartment was broken into when no one was home, and that her mother's suitcases, jewelry and documents were stolen. The record also contains an undated newspaper article reflecting that the parents of the applicant's brother-in-law were murdered in their home in Colombia.

A December 2009 psychological report concludes the applicant's mother has depressive disorder, unspecified heart problems and "psychosocial stressors – unemployed, financial instability, and separation from some family members." The psychologist's conclusions are based on diagnostic testing and information from the applicant's mother during one interview, including statements that she was hospitalized in 2004 for depression, that she takes medication for heart problems, that "her son-in-law's parents were murdered and she (i.e., [REDACTED] found the bodies," and that she was "the victim of a guerilla attack while she was in Colombia, and all of her documents were stolen from the place she was staying." The psychologist states, "these experiences have had a detrimental effect on her feelings towards Colombia." The psychological report additionally notes that the applicant's mother reported having three siblings in Colombia.

Upon review, the AAO finds the evidence in the record fails to establish that the hardships faced by the applicant's mother, considered in the aggregate, rise beyond the common results of removal or inadmissibility to the level of extreme hardship, if she remains in the U.S., separated from the applicant.

The psychological report fails to reflect an ongoing relationship between the psychologist and the applicant's mother, there is no indication that the psychologist verified the claims made by the applicant's mother, and the report notes that, "Ms. [REDACTED] may have placed undue pressure upon herself to present herself a certain way to help her daughter." Evidence indicates further that the applicant's mother visited Colombia after 1998, and that she resided with her daughter in Colombia for approximately two years between 2007 and 2009. The record also lacks corroborative evidence to establish that the applicant's mother has been hospitalized for depression, nervousness, or heart problems, or to demonstrate that her health would be affected if the applicant remained in Colombia. The AAO does not doubt the applicant's mother's depth of concern and anxiety over the applicant's immigration status. The combined evidence in the record fails, however, to establish that the applicant's mother would experience emotional, physical or financial hardship that rises above that normally experienced upon removal or inadmissibility if she remains in the U.S.

The applicant also failed to establish that her mother would experience emotional, physical or financial hardship that rises above that normally experienced upon removal or inadmissibility if her mother moved to Colombia to be with the applicant. The medical documentation reflects the applicant's mother has obtained medical care in Colombia, and the evidence fails to establish her emotional hardship based on the criminal events she experienced was extreme. The evidence does not establish the applicant's mother was unwilling to travel and live in Colombia after her experiences in 1998. Current U.S. Department of State country conditions demonstrate further that while narco-terrorist violence does occur in some rural areas and large cities, security in Colombia

has improved significantly in recent years. See [http://travel.state.gov/travel/cis\\_pa\\_tw/cis/cis\\_5667.html](http://travel.state.gov/travel/cis_pa_tw/cis/cis_5667.html). The record contains no evidence to demonstrate the applicant's mother has, or would experience financial hardship in Colombia. The record reflects further that the applicant's mother is originally from Colombia, is familiar with the language and culture of the country, and has numerous family members in Colombia. Accordingly, the applicant failed to establish that her mother would experience hardship beyond that normally associated with removal or inadmissibility if she moved to Colombia to be with the applicant.

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 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.