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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090  
**U.S. Citizenship  
and Immigration  
Services**

H5

Date: FEB 01 2012

Office: LOS ANGELES, CA

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility pursuant to section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant is a native and citizen of Mexico who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for willful misrepresentation of a material fact in order to procure an immigration benefit. The applicant is married to a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside with her husband and child in the United States.

The field office director found that the applicant failed to establish extreme hardship to her spouse and denied the waiver application accordingly. *Decision of the Field Office Director*, dated February 23, 2009.

On appeal, the applicant's husband contends that he would experience extreme financial and emotional hardship if his wife's waiver application were denied.

The record contains, *inter alia*: a copy of the marriage certificate of the applicant and her husband, indicating they were married on April 3, 2001; a letter from a copy of the birth certificate of the couple's U.S. citizen son, letters from school; documentation addressing the applicant's volunteerism and copies of certificates and awards; copies of tax returns, pay stubs, and other financial documents; letters from employers; and an approved Petition for Alien Relative (Form I-130). The entire record was reviewed and considered in rendering this decision on the appeal.

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

In general.—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) provides, in pertinent part:

- (1) The Attorney General [now Secretary of Homeland Security] may, in the discretion of the Attorney General [now Secretary of Homeland Security], waive the application of clause (i) of subsection (a)(6)(C) in the case of an immigrant 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 permanent resident spouse or parent of such an alien . . . .

In this case, the record shows, and the applicant does not contest, that on March 12, 1996, she attempted to enter the United States by presenting a Form I-551 Resident Alien Card belonging to another person. The record shows that the applicant was ordered deported by an immigration judge on March 19, 1996, and that the applicant was deported the same day. *Order of the Immigration Judge*, dated March 19, 1996; *Record of Exclusion and Deportation*, dated March 19, 1996. Therefore, the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for willful misrepresentation of a material fact in order to procure an immigration benefit. According to the applicant's Biographic Information form, it appears she has resided in the United States since at least March of 1996. *Biographic Information form (Form G-325A)*, dated April 6, 2001; *see also Biographic Information form (Form G-325A)*, dated May 2, 2006.

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.

In this case, the applicant's husband, [REDACTED] states that his monthly income is approximately \$1,500 and that his monthly expenses are approximately \$1,200. According to [REDACTED] if his wife's waiver application were denied, he will need to either hire someone to help him care for their son, [REDACTED] or he will have to send [REDACTED] to Mexico with the applicant. [REDACTED] will lose the opportunity for a better education if he moves to Mexico. In addition, [REDACTED] contends he will suffer emotionally if he is separated from his wife and states he has submitted a letter from a psychologist. *Letter from [REDACTED] dated March 13, 2009.*

After a careful review of the record, there is insufficient evidence to show that [REDACTED] will suffer extreme hardship if his wife's waiver application were denied. Significantly, aside from stating that his son would lose the opportunity for a better education and that the cultures are different, neither [REDACTED] nor the applicant discuss the possibility of [REDACTED] returning to Mexico, where he was born and where his mother continues to live, *Biographic Information form (Form G-325A)*, dated May 2, 2006, to avoid the hardship of separation and they do not address whether such a move would represent a hardship to him. If [REDACTED] decides to stay in the United States, although the AAO is sympathetic to the family's circumstances, their situation is typical of individuals separated as a result of inadmissibility or exclusion and does not rise to the level of extreme hardship based on the record. The AAO recognizes the challenges of single parenthood; nonetheless, there is insufficient evidence to show that [REDACTED] would suffer extreme hardship if he remained in the United States with his son. Although the record contains a letter from [REDACTED] teacher stating that [REDACTED] has suddenly become quiet and withdrawn and no longer plays with his friends at lunch time because he "is terrified of getting home and finding mom gone," *Letter from [REDACTED] dated March 6, 2009*, the record does not address how any hardship [REDACTED] may experience would cause extreme hardship to [REDACTED] the only qualifying relative in this case. In any event, the documentation in the record describes the typical hardships experienced by individuals separated as a result of inadmissibility or exclusion. *See, e.g., Letter from [REDACTED] undated* (letter from a school psychologist stating that being separated

from his mother “could have an encumbering impact, which would ultimately result in trauma at school, home and work.”); *Letter from* [REDACTED] undated (letter from [REDACTED] elementary school principal stating that if the applicant’s application is not approved, “it will interfere with [REDACTED] education and will cause a hardship for [REDACTED] who depends on his [m]other”). In sum, the record does not show that [REDACTED] emotional hardship would be extreme or that separation from his wife is unique or atypical compared to other individuals separated as a result of inadmissibility of exclusion. *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). To the extent [REDACTED] makes a financial hardship claim, the record shows he works as a maintenance worker and a landscape foreman. *Letter from* [REDACTED] dated June 20, 2006; *Letter from* [REDACTED] dated June 22, 2006. [REDACTED] has not addressed whether or not he would be able to find employment in Mexico. In addition, although [REDACTED] contends their monthly expenses are approximately \$1,200 per month, there is no evidence to corroborate this claim, such as documentation addressing the couple’s regular monthly expenses including rent or mortgage. Considering all of these factors cumulatively, the AAO finds that there is insufficient evidence to show that the hardship [REDACTED] would experience is extreme, going beyond those hardships ordinarily associated with inadmissibility.

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant’s husband caused by the applicant’s inadmissibility to the United States. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether she 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. *See* 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.