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



U.S. Citizenship  
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Services

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Date: **JAN 30 2012**

Office: AMMAN, JORDAN

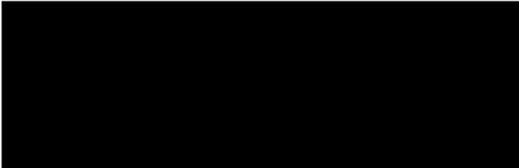
FILE: 

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 [REDACTED], and 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 [REDACTED] 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 attempting to seek a benefit through fraud or the willful misrepresentation of a material fact. The record indicates that the applicant is married to a United States citizen and is the mother of a Jordanian citizen child and three United States citizen stepchildren. She is the beneficiary of an approved Petition for Alien Relative (Form I-130) filed by her husband. The applicant seeks a waiver of inadmissibility pursuant to sections 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States with her spouse and child.

The Field Office Director found that the applicant had failed to establish that extreme hardship would be imposed on the applicant's qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the Field Office Director*, dated June 29, 2009.

On appeal, the applicant, through counsel, claims that United States Citizenship and Immigration Services (USCIS) "erred in denying an I-601 waiver filed by [the applicant's husband]." *Form I-290B*, dated July 27, 2009. Counsel also claims that "[a]ll of the relevant factors in this case, even if not extreme in themselves, when considered in the aggregate show that extreme hardship to the [applicant's husband] clearly exists." *Id.*

The record includes, but is not limited to, counsel's appeal brief, counsel's brief in support of the Form I-601, a statement from the applicant's husband, a mental health evaluation on the applicant's husband, a psychological evaluation on the applicant's husband, money transfer receipts, child support documents, and country conditions documents on Jordan. 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, that:

- (i) 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.
- . . . .
- (iii) Waiver authorized.-For provision authorizing waiver of clause (i), see subsection (i).

Section 212 of the Act provides, in pertinent part, that:

- (i) (1) The Attorney General [now the Secretary of Homeland Security, "Secretary"] may, in the discretion of the [Secretary], 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 resident spouse or parent of such an alien...

The director found the applicant inadmissible under section 212(a)(6)(C) of the Act for having provided false information regarding her marital status and family ties in applying for a visa. The record supports this finding, and the AAO concurs that this misrepresentation was material. The applicant has not disputed her inadmissibility on appeal. The AAO finds that the applicant is inadmissible under section 212(a)(6)(C) of the Act.

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. The applicant's spouse is the only qualifying relative in this case. If extreme hardship to a qualifying relative is established, the applicant is statutorily eligible for a waiver, and United States Citizenship and Immigration Service (USCIS) then assesses whether a favorable exercise of discretion is warranted. *See Matter of Mendez-Morales*, 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 of Immigration Appeals (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.

On appeal, counsel asserts that if the applicant’s spouse were to relocate to Jordan he would face the possibility of unemployment, would be unable to provide child support to his children from a previous marriage, would be considered a foreigner and may not be able to obtain an immigration status in Jordan, and that his United States citizenship may create a threat to him and his family. Counsel also asserts that relocation to Jordan would result in a reduction in the quality of medical care, education and overall quality of life. *Brief in Support of Appeal*, dated August 26, 2009. The applicant’s spouse makes similar assertions and states that he is “very nervous at the thought of losing a relationship” with his children from a previous marriage. *Statement of the Applicant’s Spouse*, undated.

The record reflects that the applicant’s spouse has three daughters from a previous marriage, ages 20, 14 and 11, and that he pays child support for these children. However, the record does not establish that the applicant’s spouse would be unable to secure employment if he were to relocate to Jordan nor does it establish that he would otherwise be unable to meet his child support obligations. Although the AAO acknowledges that relocation to Jordan would require the applicant’s spouse to move farther away from his children, the record reflects that the applicant’s spouse has not had a significant

relationship with these children over the past several years. Specifically, the record includes an evaluation of the applicant's spouse prepared by [REDACTED], Psychologist, dated January 15, 2009 in which [REDACTED] states that the applicant's spouse had not seen his children since 2003. However, the AAO notes the applicant's spouse's concerns regarding separation from his children in the United States.

The AAO acknowledges that the applicant's spouse is a United States citizen and that he has resided in the United States for many years. The AAO also acknowledges that the applicant's spouse has children living in the United States and that relocation abroad would result in separation from these children. However, as noted, the record indicates that the applicant's spouse currently does not have a relationship with these children. Further, the AAO notes that the record does not establish that the applicant's spouse would be unable to find employment in Jordan or that he would face threats due to his U.S. citizenship. Based on the foregoing the AAO finds that the even considering the potential hardships in the aggregate, the applicant has failed to establish that her spouse would suffer extreme hardship if he relocated to Jordan.

With respect to separation, counsel asserts that the applicant's spouse is experiencing emotional and psychological problems as a result of separation from the applicant. Counsel also asserts that the applicant's spouse is experiencing financial difficulty as a result of separation from the applicant. The record also contains a statement from the applicant's spouse in which he makes similar assertions and states that the separation from the applicant has been very hard on him, that he lost his business and was forced to start over, that he is having difficulty providing financial support for his children from a previous marriage and that he is "reaching a breaking point."

With respect to the emotional hardship that the applicant's spouse is experiencing, the record contains an evaluation of the applicant's spouse prepared by [REDACTED] dated January 15, 2009. In the report, [REDACTED] states that the applicant's spouse's symptoms and self-report are consistent with a diagnosis of clinical depression and anxiety and further states that the severity of his symptoms warrants medical treatment for these conditions. [REDACTED] states that he expects that the applicant's spouse "will continue to suffer significant problems with anxiety and, especially, depression unless his wife is allowed to immigrate and join him in the United States." The record also contains a Hardship Evaluation of the applicant's spouse prepared by [REDACTED] dated December 5, 2008. [REDACTED] describes the emotional hardship that the applicant's spouse is experiencing including feelings of loneliness and separation, estrangement from his children from a previous marriage, and concern for the applicant and their daughter in Jordan. [REDACTED] concludes that the applicant's spouse is clinically depressed and that "his ability to function at a level required of him in order to meet all of his financial obligations may soon be impaired by the ongoing high degree of his prolonged stress."

With respect to financial hardship, the record contains evidence that the applicant's spouse pays child support for his children from a previous marriage, as well as alimony. The record also contains evidence of expenses incurred by the applicant's spouse in travelling to Jordan as well as money sent by the applicant's spouse to the applicant in Jordan. [REDACTED], in her evaluation of the applicant's

spouse, indicates that the applicant's spouse reported his income to be between \$2,000 and \$3,000 per month and further reported that his expenses are \$4,600 per month. [REDACTED] also indicated that the applicant's spouse stated that his sister and brother, both of whom live in Syria, have been assisting him financially since 2003. However, there is no indication that [REDACTED] independently verified this information and the record does not contain evidence to corroborate these figures. 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)).

The AAO acknowledges that the applicant's spouse may suffer some emotional problems in being separated from the applicant. However, the AAO notes that while it is understood that the separation of spouses often results in significant psychological challenges, the applicant has not distinguished her spouse's emotional hardship upon separation from that which is typically faced by the spouses of those deemed inadmissible. The AAO finds the record to include some documentation of the applicant's spouse's expenses; however, the record lacks evidence of the spouse's income. Therefore, the AAO finds that the record offers insufficient proof that the applicant's spouse will be unable to support himself in the applicant's absence. Additionally, the applicant has not distinguished her spouse's financial challenges from those commonly experienced when a family member remains in the United States alone. Based on the record before it, the AAO finds that the applicant has failed to establish that her spouse would suffer extreme hardship if her waiver application is denied and her spouse remains in the United States.

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's wife 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 he merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(6)(C)(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.