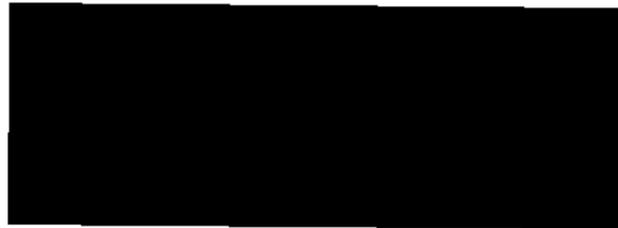


identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy
PUBLIC COPY

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



U.S. Citizenship
and Immigration
Services



#5

DATE: SEP 05 2012

OFFICE: SANTO DOMINGO

FILE: 

IN RE: 

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 was denied by the Field Office Director, Santo Domingo, Dominican Republic, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of the Dominican Republic, 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 attempting to procure admission into the country by willfully misrepresenting a material fact. The applicant's mother is a U.S. citizen, and the applicant is the beneficiary of an approved Form I-130, Petition for Alien Relative (Form I-130). She seeks a waiver 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 mother and siblings.

In a decision dated October 13, 2010, the director concluded the applicant had failed to establish that her U.S. citizen 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 evidence establishes her mother will suffer extreme emotional and physical hardship if she is denied admission into the United States. In support of these assertions, counsel submits letters written by the applicant's family and friends, and medical, financial and employment documentation. The record also contains letters from the applicant's mother. 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 in August 2005, the applicant attempted to procure a nonimmigrant visa at the U.S. Embassy in Santo Domingo by using a false name and documentation issued in the name of another person. Accordingly, the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act. Counsel does not contest the applicant's inadmissibility.

Section 212(i) of the Act provides:

The Attorney General [now, Secretary, Department 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 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. *Matter of Mendez-Morales*, 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 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 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).

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 applicant's U.S. citizen mother is her qualifying relative under section 212(i) of the Act.

The applicant's mother indicates in letters that she and the applicant have not lived together since the applicant was a young girl, and she misses her. She suffers from chronic depression, anxiety and other ailments, and she requires medical supervision for her conditions. The applicant's presence in the United States would be good for her, because the applicant could assist her by taking her to medical appointments and spending time with her. She also feels that separation from the applicant has worsened her conditions.

The applicant's brother indicates that he and his adult sister have lived with their mother since September 2010. The applicant is their only sibling outside of the United States, she and their mother share a special bond, their mother cries "inconsolably" every night and is on depression medication to alleviate the suffering caused by their separation. He believes their mother would improve mentally and physically if the applicant joins them in the United States.

Medical evidence reflects the applicant's mother has been diagnosed with schizophrenia, depression neurosis, hypertension, hyperlipidemia and chronic low back pain, and she takes medication for her ailments. Her medical doctor states she lives alone and needs someone to supervise her when she takes her medication. A psychiatrist states the applicant's mother has been on medication and under his professional care for chronic depression since March 2005, and that she would benefit from the applicant's company. A licensed clinical social worker states the applicant's mother's depression resurfaced after the applicant was denied admission into the United States; she is at risk of a "severe exacerbation" of her depression, and the applicant's presence in the United States would help to improve her mother's depression and anxiety. The social worker adds that the applicant's mother would have difficulty finding proper medical and psychiatric care if she returned to the Dominican Republic.

Letters from friends attest to the emotional hardship the applicant's mother is experiencing due to her separation from the applicant. The record also contains financial evidence, including bank and

car-insurance statements, a residential lease, and evidence the applicant's mother receives \$705 a month in Supplemental Social Security income benefits.

Upon review, the AAO finds that the evidence in the record, when considered in the aggregate, fails to establish the applicant's mother would experience hardship that rises above the common results of removal or inadmissibility if the applicant were denied admission and she remained in the United States. Although medical evidence reflects the applicant's mother suffers from psychological and medical ailments and needs someone to supervise her at home, the applicant's mother has lived in the United States for many years. Two of the applicant's three adult siblings live with their mother. The evidence fails to establish that the applicant's mother is or has at any time been dependent on the applicant for assistance. The evidence also fails to demonstrate that the applicant's siblings are unable to provide companionship and medical supervision to their mother. In addition, the value of psychological assessment conclusions regarding the applicant's mother's depression and anxiety is diminished, in that the conclusions are based on information provided to the evaluator during one interview. There is no indication that clinical or diagnostic testing was conducted, and no indication that the evaluator independently verified the information provided to her. Moreover, the evaluation fails to clarify the extent and causes of the applicant's mother's pre-existing psychological conditions and how her conditions and treatment would change if the applicant were admitted into the United States.

The cumulative evidence also fails to establish the applicant's mother would experience extreme hardship if she moved to the Dominican Republic to be with the applicant. No evidence is submitted to corroborate claims made in the psychological assessment regarding potential medical hardship there. Although the assertions are relevant and have been taken into consideration, little weight can be afforded them in the absence of supporting evidence. *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."). Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *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)).

Because 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 an 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.