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



U.S. Citizenship
and Immigration
Services

[REDACTED]

#5

DATE: SEP 06 2012

Office: PHILADELPHIA, PA

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:

[REDACTED]

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

the applicant be deported. They have "panic attacks and psychiatric conditions" because of the applicant's immigration situation. According to the applicant's spouse, it was "very difficult" for him to visit the applicant often when she lived in Bangladesh.

The applicant's spouse states that relocating with the applicant also would be extreme hardship for him. He states that he would not be able to receive the medical care he needs. He states that living in Bangladesh would be difficult also for the applicant, who now is used to the American lifestyle, and Bangladeshi society has become more conservative. He is also concerned that the applicant would be unable to find employment, may be subjected to arsenic poisoning, and would develop health problems in Bangladesh. He also indicates that the applicant feared for her safety after being threatened for her political associations before her arrival in 1994, and she now lives without fear.

The applicant's spouse is an independent contractor and his income in 2009 was [REDACTED]. A bank letter indicates their checking and savings accounts with low average balances.

The AAO concludes that the applicant has failed to demonstrate extreme hardship to her spouse should he remain in the United States if the applicant returns to Bangladesh. Although the applicant submitted a bank statement and their 2009 income tax return, she made no claims that her spouse would experience financial hardship as a result of her absence. Moreover, the applicant's spouse states that it was difficult for him to visit the applicant often when she was in Bangladesh, but he provides no details describing the difficulties he experienced. Without clear assertions of hardship and corroborating evidence, the AAO cannot conclude that the applicant's spouse would experience financial hardship.

Regarding the emotional hardship of the applicant's spouse, the AAO acknowledges that he and the applicant have a loving relationship and that he would experience hardship resulting from his separation from the applicant; however, we note such hardship is a common result of deportation or exclusion and is insufficient to prove extreme hardship. See *Hassan v. INS*, 927 F.2d 465 (9th Cir. 1991). The record does not contain psychological evaluations or other objective reports supporting the applicant's spouse's claims of psychological or emotional problems. The assertions of the applicant's spouse are relevant evidence and have been considered. However, absent supporting documentation, these assertions are insufficient proof of hardship. 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 generally 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)). Moreover, although the record indicates that the applicant's spouse is being treated for medical conditions, the applicant did not provide documentary evidence detailing his limitations and corroborating the type of assistance he needs for his daily care.

The record contains no evidence supporting counsel's assertion of extreme hardship for the applicant's adult daughter, and no evidence shows the effects of her hardship on the applicant's spouse, the only qualifying relative in the instant case. Absent supporting documentation, counsel's assertion is insufficient proof of hardship. The unsupported assertions of counsel do not constitute evidence. See *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Therefore, the AAO concludes, considering the evidence in the aggregate, the hardship the applicant's spouse would experience, should they separate, would not rise to the level of extreme.

The AAO finds that the applicant has also failed to demonstrate that her spouse would experience extreme hardship if he relocates to Bangladesh. We note that the applicant's spouse is a native of Bangladesh and speaks the language. Furthermore, the record does not establish that the applicant or her spouse would be unable to find gainful employment in Bangladesh. Although the applicant's spouse claims that he would not be able to receive the medical care he needs, the record contains no evidence corroborating his assertion. Similarly, the record lacks evidence demonstrating that the applicant would develop health issues should she relocate. Moreover, though the applicant's spouse refers to political problems the applicant experienced before she left Bangladesh in 1994, the record includes no information that would support concluding that she and her family would face similar threats there now. Therefore, the AAO concludes, considering the evidence in the aggregate, the hardship the applicant's spouse would experience, should he relocate, would not rise to the level of extreme.

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. Accordingly, the applicant has not established eligibility for a waiver of inadmissibility under section 212(i) of the Act. Because the applicant is 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. 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.