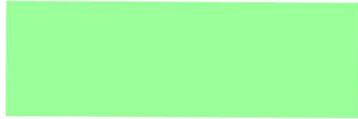


(b)(6)

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



**U.S. Citizenship  
and Immigration  
Services**

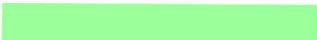


DATE: DEC 24 2013

Office: COLUMBUS, OH

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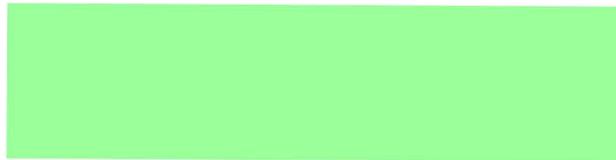
IN RE:

Applicant: 

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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Field Office Director, Columbus, Ohio, denied the waiver application and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Pakistan who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act 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 in order to reside with his wife in the United States.

The field office director found that the applicant failed to establish extreme hardship to a qualifying relative and denied the application accordingly.

On appeal, counsel contends, among other things, that the applicant established extreme hardship to his wife, particularly considering she has lived in the United States for more than twenty-five years, she takes care of her elderly mother who suffers from numerous medical issues, and country conditions in Pakistan.

The record contains, *inter alia*: a letter from the applicant's wife, Ms. [REDACTED] a letter from Ms. [REDACTED] daughter; letters of support; copies of Ms. [REDACTED] medical records; copies of tax records and other financial documents; a letter from Ms. [REDACTED] mothers's physician and copies of medical documents; a copy of the U.S. Department of State's Country Reports on Human Rights Practices for Pakistan and other background materials; 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 counsel concedes in his brief, that the applicant initially entered the United States in August 1995 using a fraudulent passport and B-2 visa. The record further shows an extensive immigration history since the applicant's entry into the United States, as detailed in the field office director's decision. Although counsel contends that the applicant did not understand that he had been placed in deportation proceedings, did not know he had been ordered removed by an immigration judge, and did not disclose his immigration history on subsequent immigration applications because he does not speak or understand English well, nonetheless, the applicant's initial entry into the United States alone renders him inadmissible under section 212(a)(6)(C)(i) of the Act for willful misrepresentation of a material fact in order to procure an immigration benefit.

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 wife, Ms. [REDACTED] states that she has been with her husband for fifteen years. According to Ms. [REDACTED] prior to meeting her husband, her life was going downhill and she was raising her daughter alone after having had bad relationships and financial problems. Ms. [REDACTED] contends that after she met her husband, she turned over a new leaf. She states that her daughter now has a family of her own, but that the absence of the only father she has ever known would be devastating. In addition, Ms. [REDACTED] states that her eighty-five year old mother lives with them and that she has dementia, atrial fibrillation, and hematoma. Ms. [REDACTED] claims that her husband takes care of all of their financial needs and that she is unable to work since she is taking care of her mother and her grandson. Moreover, she contends that she suffers from high blood pressure, high cholesterol, glaucoma, and a knee problem. She states that her husband is the cornerstone of their lives and that his absence would shatter many people's lives. She states she cannot relocate to Pakistan to be with her husband because she has to take care of her mother and her grandson.

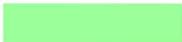
After a careful review of all of the evidence, the record establishes that if Ms. [REDACTED] relocated to Pakistan to avoid the hardship of separation, she would experience extreme hardship. The record shows Ms. [REDACTED] is currently fifty-nine years old, was born in Trinidad, and has been a naturalized U.S. citizen for nineteen years. The record contains documentation corroborating counsel's claim that most of Ms. [REDACTED] family resides in the United States, including her daughter, her grandson, her mother, her sister, and her nephews. In addition, the record contains a letter from Ms. [REDACTED] mother's physician corroborating the claim that Ms. [REDACTED] is caring for her mother who requires daily assistance for activities of daily living due to atrial fibrillation associated with congestive heart failure and mild dementia. According to the physician, Ms. [REDACTED] mother developed a severe hemarthrosis involving her right knee and anemia that required hospitalization on two occasions over the last three months. Moreover, the record contains documentation addressing country conditions in Pakistan and the U.S. Department of State has issued a Travel Warning urging U.S. citizens to defer all

non-essential travel to Pakistan due to ongoing security concerns and the presence of terrorist groups. *U.S. Department of State, Travel Warning, Pakistan*, dated September 6, 2013. Therefore, the record establishes that if Ms. [REDACTED] relocated to Pakistan, she would need to adjust to living in Pakistan after having lived in the United States for approximately twenty years, a difficult situation made even more complicated considering her mother's health problems and conditions in Pakistan. Considering the unique factors of this case cumulatively, the record establishes that the hardship Ms. [REDACTED] would experience if she relocated to Pakistan to be with her husband is extreme, going well beyond those hardships ordinarily associated with inadmissibility or exclusion.

Nonetheless, Ms. [REDACTED] has the option of staying in the United States and the record does not show that she would suffer extreme hardship if she were to remain in the United States without her husband. Although the AAO is sympathetic to the family's circumstances, if Ms. [REDACTED] decides to stay in the United States, 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. Regarding financial hardship, the record shows that the couple owns two businesses. According to the couple's 2012 taxes, gross receipts or sales for [REDACTED] which the couple has owned since 2004, were \$906,834 and total income was \$158,954. The record shows that the couple bought [REDACTED] in October 2012 for \$160,000. Although Ms. [REDACTED] contends she is no longer working because she is caring for her mother and her grandson, the record shows the couple owns significant assets, including a house and two businesses. Counsel contends that the applicant is essential to the running of the businesses. The record, however, contains no description of his duties or evidence that his duties could not be transferred to another individual in his absence. In addition, although the record contains documentation corroborating Ms. [REDACTED] contention that she suffers from several health conditions, including hyperglycemia, hyperlipidemia, and mild glaucoma, there is no suggestion that Ms. [REDACTED] requires her husband's assistance in any way due to any medical problem. With respect to emotional hardship, the record does not show that Ms. [REDACTED] hardship would be extreme, unique, or atypical compared to others separated as a result of inadmissibility or exclusion. *See Perez v. INS*, 96 F.3d 390 (9<sup>th</sup> Cir. 1996) (holding that the common results of deportation are insufficient to prove extreme hardship and defining extreme hardship as hardship that was unusual or beyond that which would normally be expected upon deportation). Even considering all of the factors in the case cumulatively, there is insufficient evidence showing that if Ms. [REDACTED] remains in the United States, the hardship she will experience amounts to extreme hardship.

Extreme hardship warranting a waiver of inadmissibility can be found only where an applicant has demonstrated extreme hardship to a qualifying relative in the scenario of separation *and* the scenario of relocation. A claim that a qualifying relative will relocate and thereby suffer extreme hardship can easily be made for purposes of the waiver even where there is no actual intention to relocate. *Cf. Matter of Ige*, 20 I&N Dec. 880, 886 (BIA 1994). Furthermore, to relocate and suffer extreme hardship, where remaining in the United States and being separated from the applicant would not result in extreme hardship, is a matter of choice and not the result of inadmissibility. *Id.*, *also cf. Matter of Pilch*, 21 I&N Dec. 627, 632-33 (BIA 1996). As the applicant has not demonstrated extreme hardship from separation, the record does not establish that refusal of

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*NON-PRECEDENT DECISION*

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admission would result in extreme hardship to the applicant's wife, the only qualifying relative in this case.

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. Because the applicant is statutorily ineligible for relief, no purpose would be served in discussing whether he merits a waiver as a matter of discretion.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER:** The appeal is dismissed.