



U.S. Citizenship  
and Immigration  
Services

(b)(6)

Date: FEB 22 2013 Office: LOS ANGELES

FILE: [REDACTED]

IN RE : Applicant: [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:

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,

  
Ron Rosenberg  
Acting 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 applicant is a native and citizen of Pakistan who was found to be inadmissible to the United States under 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 procure admission to the United States through fraud or misrepresentation. The record shows that in July 1991 the applicant applied to enter the United States by providing a Pakistani passport containing a fraudulent conditional permanent resident stamp, and was deported from the United States in October 1991. In June 1993 the applicant sought admission to the United States with a K-1 visa, and was placed in deferred inspection and then exclusion proceedings before being paroled into the United States. The applicant is the beneficiary of an approved Petition for Alien Relative (Form I-130). The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act to remain in the United States with his lawful resident mother.

The Field Office Director found that the applicant failed to establish that his qualifying relative parent would experience extreme hardship as a consequence of his inadmissibility. The application was denied accordingly. *See Decision of the Field Office Director* dated June 4, 2010.

On appeal counsel for the applicant asserts that the applicant has established extreme hardship for his lawful resident mother. With the appeal counsel submits a brief and letter from a medical doctor. The record also contains a previously-submitted declaration from the applicant's mother and a psychological assessment of the applicant from a licensed marriage and family therapist. 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:

- (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.

Section 212(i) of the Act provides that:

The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [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 Attorney General [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....

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. The applicant's mother 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 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 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. *Salcido-Salcido v. INS*, 138 F.3d 1292 (9th Cir. 1998) (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.

Counsel for the applicant asserts the applicant's mother has multiple illnesses and the applicant supports her financially, medically, and emotionally while performing daily routines for her. Counsel states that the applicant's mother cannot survive without the applicant and that his departure would have a devastating effect. Counsel states that the applicant is the youngest of three brothers and his brothers are married with families and live far away. Counsel asserts that separation would cause a severe financial, emotional, psychological and cultural impact on the applicant's mother. Counsel further asserts medical care in Pakistan is poor and the family is in United States.

A letter from a medical doctor simply states that the applicant's mother is being treated for diabetes, hypertension and hypercholesterolemia and that she needs supervision for daily activities and medication administration. The declaration from the applicant's mother states that she is Diabetic, takes insulin daily, and has high blood pressure and arthritis. She states that the applicant supports her financially, medically and emotionally and performs daily routines of taking her to a doctor, preparing meals, washing clothes, and giving medications. She states she cannot survive without him and that he also supports the four children in Pakistan of his deceased brother.

The psychological assessment focuses largely on the applicant and his personal history and also describes the family situation. The assessment notes that as the youngest son and being single the applicant is expected to care for his aging mother, whom he fully supports. The assessment notes that other siblings are not able to assist or contribute since they have their own families and live at a distance. The assessment states that the applicant's mother told the therapist she has lost her husband and one son, so losing the applicant would make her feel that life was over. The assessment notes that the four children of the applicant's brother who had died will soon be coming to United States. It also noted that the applicant stated to the therapist that he is close to his siblings and visits several times monthly, but they are busy with work and wives and children so are unable to help with their mother. He added that they are selfish and tell him he must help as he is the youngest and single.

The AAO finds that the applicant has failed to establish that his qualifying parent will suffer extreme hardship as a consequence of being separated from the applicant.

Counsel and the applicant's mother state that the applicant emotionally supports his mother. As the psychological assessment focuses largely on the applicant and makes only a brief reference directly to the applicant's mother, the record contains no supporting evidence concerning the emotional hardship the applicant's mother would experience due to long-term separation from the applicant or how such emotional hardships would be outside the ordinary consequences of removal. 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)).

Counsel asserts, and the psychological assessment references, that the applicant cares for his mother because he is the youngest son, and because the other siblings are married and busy. However, the applicant has submitted no other evidence, such as statements from siblings, as to why they are all unable to help care for their mother, nor has any documentation been submitted to establish that the mother is otherwise unable to obtain daily assistance. Other than a brief letter from a physician, the record contains no documentation of the mother's conditions or how their severity requires the applicant's presence in the United States.

Counsel also indicates that the applicant provides financially for his mother. The record contains 2008 and 2009 tax returns for the applicant but contains no documentation to establish the expenses, assets, liabilities, or overall financial situation of his mother to establish that without the applicant's physical presence in the United States she will experience financial hardship. Courts considering the impact of financial detriment on a finding of extreme hardship have repeatedly held that, while it must be considered in the overall determination, "[e]conomic disadvantage alone does not constitute "extreme hardship." *Ramirez-Durazo v. INS*, 794 F.2d 491, 497 (9th Cir. 1986).

On appeal counsel states that medical care in Pakistan is substandard and the family ties are in the United States, however the record does not contain any country condition evidence and the applicant's mother makes no reference to relocation in her declaration. The record does show, however, that the applicant's mother traveled to Pakistan to attend the wedding of a daughter, establishing that she is capable of travel to Pakistan and retains some family ties there. Thus, the applicant has not established that his mother would experience extreme hardship if she were to relocate to Pakistan to reside with the applicant.

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. The AAO therefore finds that the applicant has failed to establish extreme hardship to his qualifying spouse as required under section 212(i) of the Act. As 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 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

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U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.