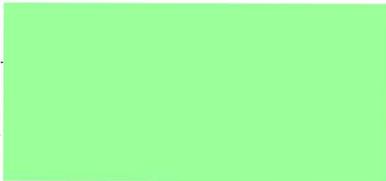


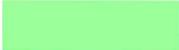


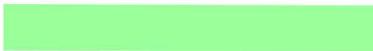
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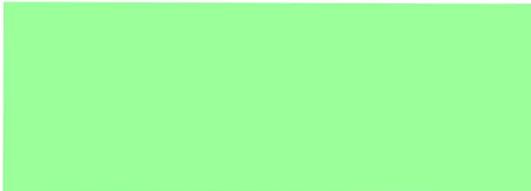
Office: PANAMA CITY, PANAMA

FILE: 

IN RE: Applicant: 

APPLICATION: Application for Waiver of Grounds of Inadmissibility under 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 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, Panama City, Panama. The matter 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 Guyana 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 the son of U.S. citizen parents and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act in order to reside with his parents 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 the field office director failed to consider the applicant's parents' economic situation and their health. Counsel also contends the applicants' parents cannot resettle in Guyana because the country lacks basic services, they would not have access to medical services, and they fear the crime and violence in Guyana.

The record contains, *inter alia*: a letter from the applicant; an affidavit from the applicant's parents, Mr. and Mrs. [REDACTED]; a letter from Mr. [REDACTED]; a letter from Mr. and Mrs. [REDACTED] physician; a psychoemotional and family dynamics assessment; 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 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 the applicant concedes, that he attempted to enter the United States in 1995, 1996, and 1998 using false documents. Therefore, the applicant is 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 mother, Mrs. [REDACTED] states that she suffers from low blood pressure, glucose deficiency, chronic bodily pain, hypotension, and hearing problems. She contends that because of her low blood pressure and blood sugar problems, she often experiences dizziness and short-term memory loss. She states she takes medications for these problems and sees a doctor about every six weeks. The applicant's father, Mr. [REDACTED] states he suffers from diabetes, high blood pressure, and hypertension. He states his diabetes causes him vision problems and frequent nose bleeds, and that he takes medications for his conditions. Mr. and Mrs. [REDACTED] contend they have six children – the applicant, two children who are U.S. citizens, one child who is a legal permanent resident, and another child who lives in Guyana. They state that they live with another child, their daughter, who is currently in removal proceedings. According to Mr. and Mrs. [REDACTED], if their daughter, who has two U.S. citizen children, is removed from the United States, they will have no one to care for them and take them to medical appointments. In addition, they contend that if she is removed, the children would remain in the United States, but that it would be impossible for them to care for her two young children. Furthermore, Mr. and Mrs. [REDACTED] contend they are retired and live on fixed incomes, barely making ends meet. They contend they receive SSI, rely on food stamps to eat, and usually send the applicant \$50 a month to help support him in Guyana where he works sporadically. According to Mr. and Mrs. [REDACTED], sending money to the applicant is an extreme hardship. Mr. and Mrs. [REDACTED] claim the applicant is their only unmarried child and has no children, and is the only one of their children who can take on the responsibility of caring for them. They contend he was the one who took care of them in Guyana before they came to the United States. Moreover, they contend they cannot resettle in Guyana, a country lacking in basic services such as clean water and steady power sources, and that there is high crime, corrupt police officials, and high levels of poverty. They also claim they would be unable to afford medical care in Guyana.

After a careful review of the record, the AAO finds that if the applicant's parents returned to Guyana to avoid the hardship of separation, they would experience extreme hardship. The record shows that Mr. [REDACTED] is currently seventy-three years old and Mrs. [REDACTED] is currently seventy-two years old. A letter from their physician confirms that Mr. [REDACTED] has hypertension and diabetes with chronic fatigue, and that Mrs. [REDACTED] has severe hypertension, arteriosclerosis, and poor memory. According to their physician, they need assistance from a family member to help them with their medications and assist them with daily living activities. In addition, documentation from a hospital confirms that Mr. [REDACTED] received emergency care for a nose bleed. The AAO recognizes that relocating to Guyana would

disrupt the continuity of their health care and that the U.S. Department of State acknowledges that medical care in Guyana does not meet U.S. standards. *U.S. Department of State, Country Specific Information*, dated July 27, 2012. Moreover, the AAO acknowledges that serious crime, including murder and armed robbery, continues to be a major problem in Guyana. *Id.* Considering all of these factors cumulatively, the AAO finds that the hardship Mr. and Mrs. [REDACTED] would experience if they returned to Guyana to be with their son is extreme, going well beyond those hardships ordinarily associated with inadmissibility or exclusion.

Nonetheless, Mr. and Mrs. [REDACTED] have the option of staying in the United States and the record does not show that either of them would suffer extreme hardship if they were to remain in the United States without their son. Although the AAO is sympathetic to the family's circumstances, if the applicant's parents decide 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 their contention that their son is their only child who can take on the responsibility of caring for them, Mr. and Mrs. [REDACTED] themselves concede that they have other grown children in the United States. Aside from contending that their other children have their own families and do not live in New Jersey, they do not address whether their other children can help care for them or whether they can move in with one of their other children, and there are no letters in the record from their other children. The AAO notes that in addition to the applicant, Mr. and Mrs. [REDACTED] have another child who continues to reside in Guyana. They have not addressed whether they are able to visit their children in Guyana. Regarding emotional hardship, the record contains a psychoemotional assessment from a counselor diagnosing Mr. and Mrs. [REDACTED] with Dysthymic Disorder (chronic Depressed Mood). Although the input of any mental health professional is respected and valuable, the assessment does not show that their situation, or the symptoms they are experiencing, are unique or atypical compared to others in similar circumstances. *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). With respect to financial hardship, there are no financial documents in the record to evaluate the extent of their hardship. There is no evidence Mr. and Mrs. [REDACTED] receive food stamps and no evidence addressing their regular, monthly expenses. In sum, the record does not show that either Mr. or Mrs. [REDACTED] hardship is extreme, unique, or atypical compared to others in similar circumstances. Even considering all of the evidence in the aggregate, there is insufficient evidence for the AAO to conclude that Mr. or Mrs. [REDACTED] would suffer extreme hardship if they decided to remain in the United States without their son.

We can find extreme hardship warranting a waiver of inadmissibility 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 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, we cannot find that refusal of admission would result in extreme hardship to either of the applicant's parents, the qualifying relatives in this case.

A review of the documentation in the record fails to establish the existence of extreme hardship to either of the applicant's parents 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, 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.