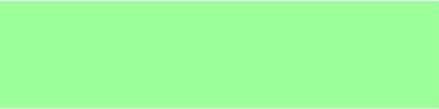




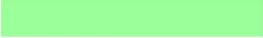
(b)(6)



DATE: **MAR 21 2013**

Office: MOSCOW

FILE: 

IN RE: Applicant: 

APPLICATION: Application for Waiver of Grounds of Inadmissibility pursuant to Section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i).

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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 with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a request 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, Moscow, Russia, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Moldova 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 having attempted to procure admission to the United States through fraud or misrepresentation. He seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States with his lawful permanent resident spouse.

The Field Office Director concluded that the applicant had failed to demonstrate extreme hardship to his qualifying spouse and denied the application accordingly. *See Decision of Field Office Director*, dated May 23, 2012.

On appeal, the applicant asserts that the Field Office Director's assessment of the circumstances surrounding the applicant's misrepresentation was in error. The applicant states that he did not intend to misrepresent his reasons for traveling to the United States. Additionally, the applicant states that contrary to the Field Office Director's finding that the qualifying spouse was married to another person at the time she applied for a Diversity Immigrant Visa, the qualifying spouse has never been married to anyone other than the applicant. He emphasizes that their marriage is genuine and not for the purpose of obtaining an immigration benefit.<sup>1</sup> Finally, the applicant asserts that the qualifying spouse has been experiencing severe emotional difficulties which have affected her physical health and her productivity at work. He alleges that their continued separation could have negative effects on her health.

The record includes, but is not limited to: statements from the applicant and the qualifying spouse; medical records; a statement from the applicant's father-in-law; a psychological evaluation; and the couple's marriage certificate. The record also contains information copied from Wikipedia regarding the qualifying spouse's prescriptions. The AAO will not consider information taken from Wikipedia, as it is not a reliable resource. Online content from Wikipedia is subject to the following general disclaimer:

**WIKIPEDIA MAKES NO GUARANTEE OF VALIDITY.** Wikipedia is an online open-content collaborative encyclopedia; that is, a voluntary association of individuals and groups working to develop a common resource of human knowledge. The structure of the project allows anyone with an Internet connection to alter its content. Please be advised that nothing found here has necessarily been reviewed by people with the expertise required to provide you with complete, accurate or reliable information. . . . **Wikipedia cannot**

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<sup>1</sup> The applicant's inadmissibility is not based on any findings regarding the validity of his marriage so the AAO need not address this issue.

**guarantee the validity of the information found here.** The content of any given article may recently have been changed, vandalized or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields.

See [http://en.wikipedia.org/wiki/Wikipedia:General\\_disclaimer](http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer), accessed on January 30, 2013 (emphasis in original). With the exception of the information copied from Wikipedia, 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:

(1) The [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.

In the present case, the record reflects that the applicant arrived at the Seattle Tacoma International Airport and presented a German passport bearing the applicant's photograph and the name of another person. In secondary inspection, it was revealed that the owner of the passport had reported it stolen and that the applicant had purchased it from someone in Germany. The applicant admitted that the name on the passport was not his and that he was not German. He also stated that he was coming to the United States to look for a job. The applicant later filed a Form I-601 in which he claimed that he had traveled to the United States on a false passport because of the political situation in Moldova. The Field Office Director therefore found that the applicant was inadmissible for presenting an altered, stolen passport and for falsely stating in his Form I-601 that he had committed fraud only to escape the political situation in his country.

On appeal, the applicant contends that he did not intend to lie about his reasons for coming to the United States. He indicates that when questioned during secondary inspection about his purpose for coming to the United States, he was afraid and therefore only mentioned the economic situation in Moldova. He states that the economic situation was linked to the political situation and that he was simply unable to explain himself fully during questioning. Regardless of the applicant's reasons for coming to the United States, however, he admits that he attempted entry by presenting an altered passport that did not belong to him. The applicant is therefore

inadmissible under section 212(a)(6)(C)(i) of the Act for having attempted to procure admission to the United States through fraud or misrepresentation. He does not contest this finding of inadmissibility on appeal. He is eligible to apply for a waiver under section 212(i) of the Act as the spouse of a lawful permanent resident.

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. *See Matter of Mendez*, 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*, the Board of Immigration Appeals (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 U.S. 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 v. INS*, 138 F.3d 1292, 1293 (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.

The qualifying spouse states that since finding out that the applicant is inadmissible, she has felt a “state of inner discomfort” and “constant stress.” She notes that the applicant provided her with necessary support and that he manages the couple’s financial obligations. She indicates that her emotional difficulties have resulted in other symptoms for which she has sought treatment from a physician and a psychiatrist. She also states that she fears living alone in the United States without the applicant or any of her other close family or friends. Additionally, the qualifying spouse asserts that she and the applicant would like to have a child but that they will not be able to do so if they are living in separate countries. The qualifying spouse also notes that the medications she is taking to control her stress could have negative effects on a pregnancy. She further states that it would be difficult for her to visit the applicant in Moldova because airline tickets are very expensive. Finally, the qualifying spouse claims that living conditions and medical care in Moldova are poor.

The AAO finds that the applicant has failed to demonstrate that his qualifying spouse will suffer extreme hardship if she continues to be separated from the applicant. Although the qualifying spouse states that she relies on the applicant for support and that she has suffered emotional difficulties in his absence, there is no evidence that her emotional hardship rises above the level of that which is normally expected from the absence of a close family member. *See Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565 (BIA 1999). While the record contains a psychological assessment regarding the qualifying spouse, the assessment is brief and lacks detail. It notes that the qualifying spouse reports “inner discomfort” and feels “hyper-emotional, anxious, vulnerable.” The assessment also states that separation from the applicant has been stressful for the qualifying spouse and that she has experienced depression with fatigue, difficulty sleeping, and anxiety. However, the

assessment does not indicate a need for ongoing treatment, nor does it suggest that the qualifying spouse's emotional difficulties have interfered with her ability to work or function on a daily basis. Therefore, the AAO finds that the evidence in the record is insufficient to establish that the qualifying spouse's emotional difficulties reach the level of extreme hardship. Additionally, the record reflects that the qualifying spouse was aware of the applicant's inadmissibility at the time she applied for a visa and that she decided to relocate to the United States without him rather than waiting for the applicant to seek a waiver of inadmissibility.

The AAO also notes that although the qualifying spouse claims that she needs the financial assistance of the applicant, there is no evidence in the record to support that claim. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *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)).

The applicant has also failed to show that his qualifying spouse would suffer extreme hardship on relocation to Moldova. The qualifying spouse is originally from Moldova and she is familiar with the language and culture. She does not have a long period of residence in the United States, and she indicates that all of her close family and friends remain in Moldova. Additionally, the record reflects that the qualifying spouse has been able to obtain medical care in Moldova, as her psychological evaluation and medical records were issued by doctors there in June 2012. Finally, the qualifying spouse does not claim that she would be unable to live in Moldova. Therefore, the AAO finds that the applicant has failed to demonstrate extreme hardship to his qualifying spouse as required for a waiver 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 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. 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.