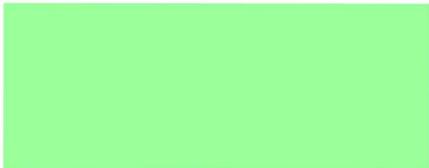




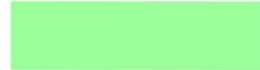
U.S. Citizenship
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Services

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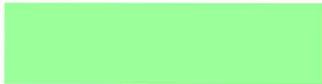
OFFICE: CIUDAD JUAREZ, MEXICO



SEP 19 2013

IN RE:

Applicant:



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:

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,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Ciudad Juarez, Mexico 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 Mexico who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for seeking to procure a visa, other documentation, or admission into the United States or other benefit provided under the Act by willful misrepresentation. The record indicates that the applicant is the fiancé of a U.S. citizen and the beneficiary of an approved Petition for Alien Fiancé(e) (Form I-129F). She 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.

The Field Office Director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601), accordingly. *See Decision of the Field Office Director*, dated February 24, 2010.

On appeal the applicant contends that if a waiver is not granted, her U.S. citizen fiancé and children will suffer extreme hardship. *See Form I-290B, Notice of Appeal or Motion* (Form I-290B), filed March 25, 2010 and received by the AAO on June 12, 2013.

The record contains, but is not limited to: Form I-290B, a statement by the applicant, various immigration applications and petitions, a hardship letter from the applicant's spouse, medical and financial records, two internet news articles, and documents pertaining to the applicant's children. The record also contains several Spanish-language documents that are not accompanied by full, certified English translations as required under 8 C.F.R. § 103.2(b)(3). Because the required translations were not submitted for these documents, the AAO will not consider them in this proceeding. The entire record, with the exception of the Spanish-language documents submitted without the required translations, was reviewed and considered in rendering this decision on the appeal.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

- (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.

The record shows that in August 2002, the applicant presented fraudulent documents in an attempt to procure a travel permit to enter the United States. She was detected and returned to Mexico. Based on the foregoing, the applicant was found to be inadmissible under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i). The record supports this finding, the applicant does not contest inadmissibility, and the AAO concurs that the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act. She requires a waiver under section 212(i) of the Act.

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 fiancé(e), or a U.S. citizen or lawfully resident spouse or parent of the applicant. Hardship to the applicant and her children can be considered only insofar as it results in hardship to a qualifying relative. In the present case, the applicant's fiancé is her only qualifying relative. 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. 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.

The applicant's fiancé is a 38 year-old native of Mexico and citizen of the United States who asserts emotional and economic hardship. He states in an undated letter that he and the applicant have been together for more than 12 years. The applicant indicates on Form G-325, Biographic Information, that she has resided in Nogales, Sonora, Mexico since 1996. The applicant's fiancé explains that he and their children reside in Nogales, Arizona and that separation from the applicant has caused him "deep depression and great sadness." Moreover, the applicant contends that her fiancé lost his employment in 2008 "on account of the stress" he has endured raising two children without her, and she adds that he also may lose his current employment if she is not admitted. No corroborating documentary evidence was submitted to show either that the applicant's fiancé lost employment in the past or risks losing his current employment as a result of stress, or that he is experiencing stress or depression. 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)).

Additionally, the applicant avers that their children are experiencing emotional hardship as evidenced by poor report card grades and a teacher's letter. As noted by the Field Office Director, an applicant's children are not qualifying relatives for purposes of a waiver under section 212(i) of the Act. While living between two households is understandably a challenge for the applicant's children, the evidence is insufficient to establish that they are experiencing hardship to a degree that elevates the applicant's fiancé's hardship to an extreme level.

The applicant's fiancé writes that the applicant cannot earn an adequate wage in Mexico and thus the family's financial burden of rent, food and utilities for two houses, as well as travel expenses and telephone cards fall on him. While the record contains copies of the applicant's fiancé's paystubs, a mortgage in his name alone and various billing statements, no documentary evidence has been submitted demonstrating that the applicant has contributed financially to the household or concerning the potential economic contribution she might make if admitted to the United States.

The evidence submitted does not show that the applicant's fiancé is unable to meet his financial obligations in the United States and continue supporting the applicant in Mexico. While residing across the border from the applicant is understandably a challenge for her fiancé, the economic and emotional difficulties described have not been distinguished from those ordinarily associated with separation as a result of a loved one's inadmissibility.

The AAO acknowledges that separation from the applicant has caused various difficulties for the applicant's fiancé. However, we find the evidence in the record insufficient to demonstrate that his challenges, considered cumulatively, meet the extreme-hardship standard.

Addressing hardship he would experience upon relocation to Mexico, the applicant's fiancé states that it is in their children's best interest to continue attending school in Arizona, and they would "suffer due to the lack of English in Mexico and the superior [U.S.] educational system." He adds that it would be hard on them "to be uprooted and relocated to an unfamiliar situation." The applicant writes that their children lack significant family ties in Mexico, as both sets of grandparents reside in the United States. She explains that their son suffers from bronchitis, for which he takes medication, and their children and fiancé would not have suitable medical care in Mexico. The applicant's fiancé also asserts that health services in Nogales, Sonora, Mexico are poor. As previously discussed, hardship to the applicant's children can be considered only insofar as it results in hardship to her fiancé. The record contains no country-conditions reports or other documentary evidence addressing education or medical services in Mexico from which a determination could be made that their children would be unable to obtain adequate medical treatment in Mexico or that they would suffer so significantly as a result of the country's health or education systems that their hardship would constitute extreme hardship to the applicant's fiancé.

The applicant contends that the current security conditions in Nogales, Sonora, Mexico "are horrible on account of drug and human trafficking." She submits two news articles addressing the deaths of three people connected to the U.S. Consulate in Ciudad Juarez, Chihuahua. The applicant's fiancé writes that Nogales has been recently plagued with assassinations and drug-related crime. In addition to the articles submitted, the AAO has reviewed the U.S. State Department's current *Mexico Travel Warning*, dated July 12, 2013, in which it is noted that Sonora is a key region in the international drug and human trafficking trades and can be extremely dangerous for travelers.

The applicant avers that current economic conditions in Nogales, Sonora, Mexico are likewise horrible as a result of drug and human trafficking. No supporting documentary evidence has been submitted, however, addressing Mexico's economy or employment from which it could be determined that the applicant's fiancé would be unable to secure employment therein sufficient to support his family.

The AAO has considered cumulatively all assertions of relocation-related hardship to the applicant's fiancé, including readjusting to a country in which he and their son have not resided for a number of years and in which their daughter has not resided; his family ties to the United States, including his parents; his home ownership in the United States; his steady employment in the United States and the potential loss of income if he were to stop working there; and other

economic, employment, educational, medical, and safety concerns regarding Mexico. Considered in the aggregate, the AAO finds the evidence insufficient to demonstrate that the applicant's U.S. citizen fiancé would suffer extreme hardship were he to relocate to Mexico to join her.

The applicant has not demonstrated that the challenges her fiancé faces are unusual or beyond the common results of removal or inadmissibility. Accordingly the AAO finds that the applicant has failed to demonstrate extreme hardship to a qualifying relative. As the applicant has not established extreme hardship to a qualifying family member, no purpose would be served in determining whether she 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.