



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

(b)(6)

DATE: **AUG 26 2014**

Office: **NEW YORK, NY**

FILE: [REDACTED]

IN RE: [REDACTED]

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:  
[REDACTED]

**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 that reads "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, New York, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Guyana 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 procured admission to the United States through fraud or a material misrepresentation. The applicant is the spouse of a U.S. citizen and is the beneficiary of an approved Petition for Alien Relative. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with his lawful permanent resident wife.

In a decision, dated July 9, 2013, the district director found that the applicant had failed to establish that his U.S. citizen spouse would suffer hardship rising to the level of extreme hardship as a result of his inadmissibility. Specifically, the district director stated that the record lacked documentation to support the claims of financial, medical, and emotional hardship as a result of the applicant's inadmissibility. The application was denied accordingly.

On appeal, counsel states that medical documents were submitted to support the applicant's spouse's claims and that in-depth testimonial evidence obtained during the applicant's adjustment interview was not considered in adjudication of the applicant's waiver application. Counsel submits medical documentation concerning the applicant's spouse on 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.

The record reflects that the applicant entered the United States on April 26, 1995 with a Guyanese passport and nonimmigrant visitor's visa belonging to someone else. The applicant is therefore inadmissible under section 212(a)(6)(C)(i) of the Act for having procured admission to the United States through fraud or a material misrepresentation. He does not contest his inadmissibility on appeal. The applicant's qualifying relative is his U.S. citizen wife.

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 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 v. I.N.S.*, 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.

The record of hardship includes: medical documentation for the applicant's spouse, a statement from the applicant's spouse, and financial documentation.

The applicant's spouse states that she will suffer extreme emotional and financial hardship as a result of the applicant's inadmissibility. She states that after 17 years of marriage she relies on the applicant's income to cover her basic needs and relies on him emotionally as she copes with her medical conditions, which include arterial blockages and cerebrovascular disease. The record does not currently support these claims. The record indicates that the applicant and his spouse have been living in separate cities since 2009. The record shows that the applicant's spouse is living in Philadelphia and the applicant is living in New York City. The record shows that in 2011 the applicant's spouse earned \$11,671 as a childcare provider. The record does show that the applicant and his spouse have a joint bank account, but does not include information regarding the applicant's income or his spouses' expenses and need for financial support. Other financial documentation in the record includes income information for an individual who at the time the documentation was submitted, was living at the same address in Philadelphia as the applicant's spouse. This financial documentation indicated that this individual earned \$64,206 in 2011. Without additional documentation concerning the applicant's income, his spouse's expenses, and other forms of financial support available to the applicant's spouse through her living situation in Philadelphia, we cannot find that she would suffer extreme financial hardship as a result of separation.

In regards to emotional and medical hardship, the documentation in the record does not support the statements regarding the applicant's spouse's asserted medical conditions nor does it show that if the applicant's spouse does suffer from these conditions, they cause her to require continued care. The medical documentation submitted indicates that on January 13, 2011, the applicant's spouse went to the emergency room complaining of a fever and neck pain. She stated at the time, that she had returned from the Dominican Republic two days prior and that her neck pain began after the plane had a hard landing. The records indicate that the applicant's spouse underwent diagnostic imaging, but do not indicate that this imaging resulted in a medical diagnosis beyond a sprained neck. There is nothing in plain language from a treating physician outlining the applicant's spouse's medical conditions or addressing the claims that she was diagnosed with an arterial blockage and cerebrovascular disease. The record does not indicate that the applicant has any medical conditions that would require the care and attention of the applicant or that the applicant, living in New York, would be the person to provide such care if it is needed.

Moreover, the record lacks supporting documentation to indicate that the applicant's spouse would suffer extreme hardship as a result of relocating to Guyana. We acknowledge that the applicant's spouse has significant family ties to the United States, which includes three children. We also recognize her concerns over finding employment in Guyana and the risk of losing her lawful permanent resident status in the United States. However, no documentation in support of these statements was submitted in the record. The record fails to include evidence of country conditions in Guyana and the applicant's spouse's ability to find employment. The record also fails to include details regarding the applicant's spouse's relationships with her children and whether the closeness of these relationships would cause hardship upon separation. The assertions of the applicant's spouse are relevant evidence and have been considered. However, absent supporting documentation, these assertions cannot be given great weight. *See Matter of Kwan*, 14 I&N Dec. 175, 177 (BIA 1972) ("Information contained in an affidavit should not be disregarded simply because it appears to be hearsay. In administrative proceedings, that fact merely affects the weight to be afforded [it] . . ."). Going on record without supporting 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'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

In this case, the current 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. Therefore, the applicant has failed to establish extreme hardship to his lawful permanent resident spouse as required under section 212(i) of the Act.

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

**ORDER:** The appeal is dismissed.