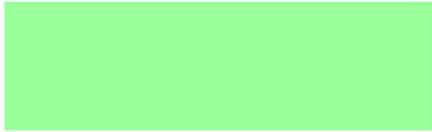


(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



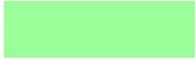
U.S. Citizenship
and Immigration
Services



DATE: MAR 04 2014

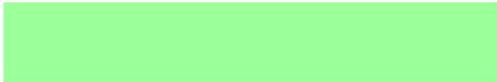
Office: WASHINGTON, DC

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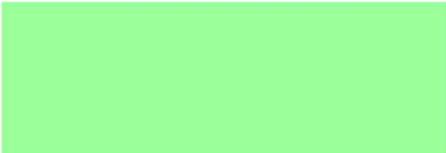
Applicant:



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:

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, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Washington, DC. 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 Bolivia 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 procuring a visa by fraud or willful misrepresentation of material facts. The applicant's spouse and child are U.S. citizens and his parents are lawful permanent residents. He seeks a waiver of inadmissibility in order to reside in the United States.

The Field Office Director found that the applicant had failed to establish extreme hardship to a qualifying relative and denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601), accordingly. *Decision of the Field Office Director*, dated June 20, 2013.

On appeal, counsel asserts that the applicant has met his burden of proof in establishing that his spouse would suffer extreme hardship and that his parents would also suffer extreme hardship. *Form I-290B, Notice of Appeal or Motion*, filed July 22, 2013.

The record includes, but is not limited to, counsel's Form I-601 brief, the applicant's spouse's statement, medical records for the applicant's child, a statement in support of the applicant, financial records, photographs, and country-conditions information about Bolivia. 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, 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.

Section 212(i) of the Act provides that:

- (1) The Attorney General [now the Secretary of Homeland Security (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 presented a fraudulent birth certificate and passport to procure a nonimmigrant visa that was issued on January 13, 2004. He submitted Form DS-156, Nonimmigrant Visa Application, dated December 10, 2003, using a false name, false date of birth

and false parents' names. Moreover, the applicant did not tell the truth when he answered "no" to the form's question asking if his parents live in the United States, because, as he explained to an immigration officer in the United States, he knew it would affect his chance of receiving a non-immigrant visa. Based on the applicant's willful misrepresentations, the AAO finds that the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act. The applicant does not contest his inadmissibility.

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. Hardship to the applicant or child can be considered only insofar as it results in hardship to a qualifying relative, in this case the applicant's spouse and parents. 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 AAO will first address hardship to a qualifying relative upon relocation to Bolivia. The applicant’s spouse states that she came to the United States in 1995 when she was 16 years old; she has grown up and made a life for herself here; and she is emotionally close to and dependent on her immediate family who live here. She does not, however, specify which members of her immediate family live in the United States, and from her statement it appears that her mother visits occasionally from outside the United States.

The applicant’s spouse also states that she is worried about how their child would be affected if they were to relocate to Bolivia, specifically in terms of his health and education. She notes a lack of proper medical care for women and children in Bolivia; their son has health problems; and she wants the best possible care for him. The applicant’s child’s medical records reflect that he is receiving ongoing care for microhematuria. According to a medical report dated March 2013, their son had no episode of dysuria since his last visit and had no episode of gross hematuria, though he had some mild abdominal pain occasionally. The doctor recommended that he return in 12 months for ongoing care and evaluations. A 2013 U.S. Department of State report on Bolivia reflects that medical care in large cities is adequate for most purposes but of varying quality, and medical facilities are generally not adequate to handle serious medical conditions. Additionally, the applicant’s spouse states that she and the applicant want the best education for their child, and he would have more choices in the United States. As mentioned, although their child is not a qualifying relative, the AAO will consider his hardship to the extent it causes hardship to the applicant’s spouse.

Concerning the financial hardship that she would experience in Bolivia, the applicant’s spouse states that the possibility of the applicant working and making decent money in Bolivia is very low; and the applicant has a full-time job and a business in the United States. The record does not include

evidence about her own employment prospects. The applicant submits a 2013 report indicating that the unemployment rate in Bolivia was 7.5% in 2012.

Counsel cites to country-conditions reports that describe political violence in Bolivia, in addition to arbitrary arrests, gender discrimination, trafficking, and forced labor. The Department of State's 2012 Crime and Safety Report for Bolivia states that most major cities in Bolivia have medium threat ratings for crime; violent crimes against foreigners are statistically low but do occur; and street crime is common. Counsel also refers to a 2010 Department of State travel warning for Bolivia and submits several recent human-rights reports about Bolivia, the Department of State's April 2013 Country Specific Information report on Bolivia and other general country information.

The applicant does not address the hardship the applicant's parents would experience if they were to relocate to Bolivia, although counsel in her brief outlines general country conditions that she asserts would affect his family members. It is unclear, however, where in Bolivia the applicant's parents would reside if they were to relocate; therefore it is not possible to conclude that they would experience hardship based on conditions there. The record does not include sufficient evidence to show that the applicant's parents would experience extreme hardship in Bolivia.

The record reflects that the applicant's spouse, a native of Bolivia who lived there until 1995, may experience difficulty in Bolivia based on separation from her family, general country conditions, her time in the United States and her emotional harm related to the effects of relocation on their child. However, the record does not address the seriousness of their child's medical condition and whether he could receive adequate medical care in Bolivia. Moreover, the record does not include sufficient evidence to establish that the applicant's spouse would experience financial hardship in Bolivia. The applicant and his spouse's employment prospects are not clear from the record and the country-conditions reports, without more, are not sufficient to establish financial hardship. Additionally, although documents in the record show that the applicant is from Guayaramerin, Bolivia, the record is not clear about where the applicant and his spouse would reside and if that area is particularly unsafe.

The record lacks sufficient documentary evidence of emotional, financial, medical or other types of hardship that, in their totality, establish that the applicant's spouse would experience extreme hardship upon relocation to Bolivia.

The AAO will now address hardship to the applicant's qualifying relatives upon remaining in the United States. The applicant's spouse states that the applicant is her best friend; he was there for her when she was depressed after their child was born; she would be lost without him; he is devoted to her and their son; their son would be devastated without him; she lived with divorced parents and does not want their son to experience something similar; she is suffering from insomnia and stress; she cannot function normally due to lack of sleep; and the applicant's parents work and would be unable to help care for their son. A friend of the applicant and his spouse states that the applicant is a devoted father and works hard to provide for his family.

Concerning the financial hardship she would experience in the United States without the applicant, his spouse states that she would be left with the applicant's business, and the business would fail without him running it; she could not provide for their son without the applicant; they have many expenses and she would be working as a single mom; their son's daycare is \$175 to \$180 a week; their mortgage payment is \$1,604 and they owe approximately \$220,000 on their house; and she fears they will lose their house without the applicant. The applicant's spouse's 2012 Form W-2 reflects wages of \$18,347. The record includes a home loan overview reflecting an unpaid principal balance of \$214,316.03. A copy of an IRS information sheet that includes local standards of housing and utilities in [REDACTED] Virginia, where the applicant and his spouse reside, reflects that the cost of housing and utilities for a family of three is estimated to be \$35,554 per year. In addition, the record includes incorporation documents from 2013 for the applicant's business. The applicant, however, provides no specific financial information about his business.

With respect to the hardship that the applicant's parents would experience without the applicant in the United States, his spouse states that the applicant helps his parents around their house with electrical and carpentry work. She adds generally that they also help the applicant's parents, who are employed, with their rent. The applicant submits no other evidence specifying the hardship his parents would experience in the United States. Though it is reasonable to conclude, based on the applicant's spouse's assertions, that the applicant's parents depend on him for some assistance, the evidence submitted does not establish the applicant's parents would experience extreme hardship if they were to remain in the United States.

The record reflects that the applicant's spouse would experience some emotional hardship without the applicant, given their close relationship. However, though the record includes evidence of the applicant's spouse's financial obligations concerning their mortgage, it does not include evidence of the applicant's salary or details about their other expenses. The record lacks sufficient documentary evidence of emotional, financial, medical or other types of hardship that, in their totality, establish that a qualifying relative would experience extreme hardship upon remaining in the United States.

The documentation in the record fails to establish the existence of extreme hardship to a qualifying relative caused by the applicant's inadmissibility to the United States. Therefore, the AAO finds that no purpose would be served in discussing whether he merits a waiver as a matter of overall 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.