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

(b)(6)

Date: AUG 1 4 2015

FILE:
APPLICATION RECEIPT:

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:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO**.

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Albany, New York, denied the application. 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 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 procuring admission to the United States through fraud or misrepresentation. The applicant is the beneficiary of an approved Petition for Alien Relative (Form I-130) and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act to remain in the United States with his U.S. citizen spouse.

The field office director found that the applicant failed to establish that his qualifying relative would experience extreme hardship as a consequence of his inadmissibility. The Application for Waiver of Grounds of Inadmissibility (Form I-601) was denied accordingly. *See Decision of the Field Office Director* dated March 29, 2012.

On appeal, filed on April 23, 2012, and received at the AAO January 15, 2015, the applicant contends in the Notice of Appeal (Form I-290B) that his spouse will suffer extreme hardship without him because she depends on him for daily activities. With the appeal the applicant submits a statement from his spouse, medical information for his spouse and his spouse's parents, financial documentation, and letters of support.[1] The record contains statements from the applicant and his spouse, financial documentation, country information for Guyana, and other evidence submitted in conjunction with the Application to Adjust Status (Form I-485). 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 that:

> The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [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 Attorney General [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.

[1] The field office director notified the applicant on December 18, 2014, that the appeal, which was received by the field office on May 2, 2012, had been forwarded to the AAO, but no additional or updated documentation has been submitted to the record.

The record reflects that on July 12, 2003, the applicant entered the United States using a passport and B-2 visitor visa in the name of another person. Based on this information the field office director found the applicant inadmissible for fraud or misrepresentation. Although the applicant states that he did not understand at the time that he was using a fraudulent passport and visa, he does not dispute the finding of 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. The applicant's spouse is the only qualifying relative in this case. 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-Moralez,* 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. *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 applicant states that his spouse needs his psychological support and the spouse states that being separated from the applicant for a long period of time would be mentally straining and it would be embarrassing to her and her family if her husband is not with her, especially after having a baby.

However, the record contains no detail or supporting evidence concerning the emotional hardship the applicant and his spouse state she would experience due to long-term separation from the applicant or how such emotional hardships are outside the ordinary consequences of removal. Going on record without supporting documentary 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. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The applicant further contends that his spouse depends on him for cleaning and cooking because she was diagnosed with gestational diabetes while pregnant and that doctors will watch for normal baby growth and amniotic fluid. The spouse states that after giving birth she will need regular medical checkups to be sure she is not getting diabetes. An undated note for the spouse from a physician indicates a high risk pregnancy due to gestational diabetes, late prenatal care, and obesity, with an expected delivery date of On appeal the applicant submitted a photograph of a baby, but no documentation about the birth of the applicant's child.

The physician's note does not contain a clear explanation or detail of the spouse's condition, and no updated documentation has been submitted explaining the exact nature and severity of any condition the spouse has, a prognosis, or a description of any treatment for her that would require the applicant's physical presence in the United States.

The spouse states that she wants the best health care, education, and opportunities for her child, so she needs the applicant to live and work in the United States. She maintains that without the applicant she cannot support herself and her child. She states that she wants to stay at home to care for her child but without the applicant she would need to go back to work and with only a high school education could only earn minimum wage. The applicant states that his spouse depends on him for paying bills and that without him she will be forced to go on public assistance. The spouse states that if she and applicant are separated she could only communicate with the applicant over the phone, which would be expensive, and that she would also need to pay for child care, so she could not save enough money to visit the applicant, and her child would never see its father.

Financial documentation submitted to the record includes credit card statements, auto insurance billing, utility bills, and rent receipts. However no documentation has been submitted establishing the applicant's gainful employment or any financial contribution he makes to support the assertion that without his physical presence in the United States, his spouse will experience financial hardship. There is also no indication that the spouse is unable to work.

The applicant states that the health of his spouse's parents affects his spouse, and the spouse states that her parents have diabetes and depend on her and the applicant to help them financially because her father is unemployed and her mother earns little as a cleaner. Medical records dated February 8, 2012, show the spouse's father with uncontrolled diabetes and lists prescription medication. A physician's note dated February 5, 2012, indicates that the spouse's mother's blood sugar level is outside the normal limits. However, the record contains no further detail of her parents' health condition, or any documentation or explanation of any assistance the spouse provides them and how without the applicant, she would be unable to assist her parents.

We find that the record fails to establish that the applicant's spouse will suffer extreme hardship as a consequence of being separated from the applicant. We recognize that the applicant's spouse will endure hardship as a result of separation from the applicant. However, her situation if she remains in the United States is typical to individuals separated as a result of removal and does not rise to the level of extreme hardship based on the record. The difficulties that the applicant's spouse would face as a result of her separation from the applicant, even when considered in the aggregate, do not rise to the level of extreme as contemplated by statute and case law.

We also find that the record fails to establish that the applicant's spouse would experience extreme hardship if she were to relocate to Guyana to reside with the applicant due to his inadmissibility. In his statement the applicant describes growing up in Guyana with poverty, government corruption, and a fear of crime and violence. The applicant's spouse states that in Guyana the standard of medical care would put her and her baby in jeopardy. Significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate, are relevant factors in establishing extreme hardship, and according to the U.S. Department of State medical care in Guyana does not meet U.S. standards. *See U.S. Department of State, Bureau of Consular Affairs – Guyana*, October 16, 2014. However, the evidence in the record is insufficient to establish that either the applicant's spouse or child suffers from such a condition.

The applicant's spouse states that Guyana has a high crime rate, that there are few opportunities there, and that young people have to leave school to work. Country information submitted to the record includes news reports about crime and political corruption. However, the record does not contain any information to establish that the applicant and his spouse would be unable to find employment to support themselves and fails to address where the applicant would live, and therefore fails to establish that economic and safety concerns regarding returning to Guyana, the spouse's native country, would rise to the level of extreme hardship for his spouse.

In this case, the 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. We therefore find that the applicant has failed to establish extreme hardship to his qualifying spouse as required 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 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.