



U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: **JUL 02 2015**

FILE: [REDACTED]  
APPLICATION RECEIPT: [REDACTED]

IN RE: Applicant: [REDACTED]

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 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](http://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, Los Angeles Field Office, 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 Pakistan 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 December 14, 2011.

On appeal, filed on January 12, 2012, and received by the AAO on February 2, 2015, the applicant asserts the level of hardship to his spouse is extremely high because they have been married since 1995. With the appeal the applicant submits a statement. The record contains statements from the applicant, his spouse, his spouse's mother, and the priest at a church the applicant attends; financial documentation; country information for Pakistan; 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.

The record reflects that the applicant entered the United States without inspection in January 1992 and filed an Application for Asylum and for Withholding of Removal (Form I-589), which was withdrawn on March 16, 1995, before an immigration judge, who granted the applicant voluntary departure until January 17, 1996. However, the applicant failed to depart during that period, a

warrant of deportation was issued on January 18, 1996, and he was subsequently removed from the United States to Pakistan on March 10, 1997. The applicant re-entered the United States in February 1999 as a D-1 crewman.<sup>1</sup> The record reflects that the applicant was a crewmember on a ship in [REDACTED] and on February 20, 1999, was reported as a deserter. The applicant states that he returned to the United States via a commercial cargo ship, that he was unable to read and write so he trusted the captain's actions in applying for his visa, but that when he discerned that he could not change his immigration status he left the ship and did not return. The applicant's passport/seaman's book shows a date of birth of [REDACTED] while the applicant's birth certificate and other documentation in the record indicates a date of birth of [REDACTED]. The field officer director found that the applicant had obtained a D-1 visa while not disclosing his 1997 deportation and thus determined the applicant inadmissible under section 212(a)(6)(C)(i) for procuring admission to the United States through fraud or misrepresentation. The applicant has not contested the finding and on Form I-601 the applicant indicates that he misrepresented a material fact to enter the United States.

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-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,

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<sup>1</sup> In an August 15, 2006, statement to U.S. Immigration and Customs Enforcement agents the applicant stated that he had entered the United States without inspection from Canada through [REDACTED] Washington, on July 15, 2005. On Form I-589, dated October 5, 2006, the applicant stated that he had traveled to Canada on a cargo ship then entered the United States in October or November 1998 without inspection near [REDACTED] Washington. In a statement before an asylum officer in February 8, 2008, the applicant stated that he had entered as a crewman but that he had disembarked from a ship in North Carolina.

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.

In a statement dated May 5, 2010, the applicant’s spouse states that separation from the applicant would be a hardship for the entire family, as he is their strength and holds them together and without him the family could not survive physically, financially, spiritually, and emotionally. The spouse states that if the applicant leaves, her daughter would be traumatized again after it took years of therapy for her to be stable and trusting after the applicant had previously left. The spouse states that her daughter has been in an unstable situation since she was seven years old, that the applicant is the only father figure she has known, and that the daughter is now a student and dependent upon her and the applicant to finish her education. The spouse further states that her mother depends on the applicant daily and cannot function without him. She asserts that her mother suffers chronic illnesses that require constant care and that she depends on the applicant for preparing meals, administering medication, transporting her to the doctor, shopping for groceries, and cleaning the house.

The record contains little detail or supporting evidence explaining the spouse's emotional hardships and how such emotional hardships are outside the ordinary consequences of removal. The assertions made by the applicant's spouse regarding her emotional hardships have been considered. However, assertions cannot be given great weight absent supporting evidence. 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 record contains no statement from the applicant's daughter, who appears from the record to have been born in 1984, or other documentation to establish her relationship with the applicant, or evidence to indicate that hardship to the spouse's daughter would cause extreme hardship to the applicant's spouse, the only qualify relative in this case. Further, the record contains only a statement from the spouse's mother, dated February 17, 2008, that the applicant had returned to the United States in 1999 and had not left since that time. The record contains no statement from the spouse's mother about care the applicant provides, nor is there medical documentation establishing her medical condition and how the absence of the applicant would create a hardship for the spouse's mother that would cause extreme hardship for the applicant's spouse.

The applicant's spouse states that she is the sole supporter for her daughter and mother and that it would be impossible for her to work two jobs to keep up financially while also paying court and attorney fees. The applicant states that he is unemployed and has not worked in the United States. The applicant has received employment authorization and there is otherwise no indication that he is unable to work. The record contains no documentation establishing the spouse's current expenses, assets, liabilities, or her overall financial situation, or any contribution from the applicant, to establish that without the applicant's physical presence in the United States, the applicant's spouse will experience financial hardship.

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. Although we recognize that the applicant's spouse will endure hardships, there is insufficient evidence in the record, in the aggregate, to find that the applicant's spouse would suffer hardship beyond the common results of removal upon separation from the applicant.

We find, however, that the record establishes that the applicant's spouse would experience extreme hardship if she were to relocate to Pakistan. In a statement dated September 18, 2006, the applicant's spouse states that she was raised as Catholic and has introduced the applicant to her beliefs. She states that when the applicant was removed in 1997 she followed him to Pakistan, but that she was not accepted by anyone and as a non-Muslim was unwelcome. She states that she was locked in rooms so nobody could get to her because the applicant feared for her life. She states that she remained in Pakistan for one year trying to process the applicant's immigration paperwork at the United States embassy.

In an affidavit dated March 31, 2011, the applicant states that his family treated his spouse as an enemy. On his Form I-589 asylum application, dated October 5, 2006, the applicant states that his family will not accept his spouse and that while there she was threatened by his family and villagers.

He indicated that his family lives near the Afghanistan border and are influenced by the Taliban and further states that his family told him no one outside the family could know his spouse is Christian or she might be harmed.

Country reports and news accounts submitted by the applicant to the record highlight targeting of Christians and other human rights violations in Pakistan. The U.S. Department of State, in a travel warning for Pakistan dated February 24, 2015, warns U.S. citizens to defer all non-essential travel to Pakistan. It indicates that the Consulate General in [REDACTED] no longer offers consular services and the Consulate General in Lahore remains temporarily closed for public services. The warning continues to note that the presence of terrorist groups poses a danger to U.S. citizens throughout Pakistan. It notes that members of minority communities have been victims of targeted killings and accusations of blasphemy, a crime that carries the death penalty, and that places of worship have frequently been targeted for attack. The warning indicates that rallies, demonstrations, and processions occur regularly throughout Pakistan and might take on an anti-U.S. or anti-Western character. It further notes that U.S. citizens throughout Pakistan have been kidnapped for ransom. *U.S. Department of State, Bureau of Consular Affairs, Travel Warning – Pakistan*, dated February 24, 2015.

The record establishes that the applicant's U.S. citizen spouse was born in the United States and has no ties to Pakistan. She would have to leave her mother and daughter as well as her long-time employment and be concerned about her safety. It has thus been established that the applicant's spouse would suffer extreme hardship were she to relocate abroad to reside with the applicant due to his inadmissibility.

We can find extreme hardship warranting a waiver of inadmissibility only where an applicant has demonstrated extreme hardship to a qualifying relative in the scenario of separation and the scenario of relocation. A claim that a qualifying relative will relocate and thereby suffer extreme hardship can easily be made for purposes of the waiver even where there is no actual intention to relocate. *Cf. Matter of Ige*, 20 I&N Dec. 880, 886 (BIA 1994). Furthermore, to relocate and suffer extreme hardship, where remaining the United States and being separated from the applicant would not result in extreme hardship, is a matter of choice and not the result of inadmissibility. *Id.*, also *cf. Matter of Pilch*, 21 I&N Dec. 627, 632-33 (BIA 1996). As the applicant has not demonstrated extreme hardship from separation, we cannot find that refusal of admission would result in extreme hardship to the qualifying relative in this case. 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.