



U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: JUL 30 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:



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 Director of the Baltimore, Maryland District (the director) denied the Application for Waiver of Grounds of Inadmissibility (Form I-601), 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 Zambia 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 willful misrepresentation of a material fact on a non-immigrant visa application. The applicant is married to a U.S. citizen, and he is the beneficiary of an approved Petition for Alien Relative (Form I-130). The applicant 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 with his spouse.

The director concluded that the applicant failed to establish that extreme hardship would be imposed on the applicant's spouse if she remained in the United States separated from the applicant or if she relocated to Zambia. The application was denied accordingly. *See Decision of Director*, dated June 13, 2014.

On appeal the applicant asserts, through counsel, that evidence in the record demonstrates that his wife will experience extreme financial, medical and psychological hardship if he is denied admission into the United States. To support his assertions, the applicant submits an affidavit from his wife and medical documentation. The record also includes previously submitted statements from the applicant, his spouse and friends; financial records; apartment leases; an Internet article; and documentation pertaining to identity and relationship status. The entire record was reviewed and considered in arriving at 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.

....

- (iii) Waiver authorized. - For provision authorizing waiver of clause (i), see subsection (i).

Section 212(i) of the Act provides, in pertinent part, that:

- (1) The Attorney General [now Secretary, Department 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 immigrant 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 in August 2007, the applicant falsely indicated on his non-immigrant visa application that he was married, thereby shutting off a line of inquiry relevant to his eligibility. Accordingly, the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act for willful misrepresentation of a material fact. The applicant does not contest his inadmissibility under section 212(a)(6)(C)(i) of the Act. He seeks a waiver under section 212(i) of the Act.

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, in this case, the applicant's U.S. citizen spouse. 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-Morales*, 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 of Immigration Appeals (BIA) 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 BIA 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 BIA 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 BIA 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 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.

On appeal, the applicant asserts that the evidence demonstrates that his spouse would experience extreme financial, physical and emotional hardship if he is denied admission into the United States and she remains here without him. The applicant indicates in an undated statement submitted with the Form I-601 that his wife has had a challenging life, has moved often, and that her daughter lives with his wife’s mother in another state so that his wife can get back “on her feet.” He states further that his wife does not earn enough money to support herself and that she depends on him for her lodging and financially.

The applicant’s wife states, in an affidavit dated June 26, 2014, that she has not lived outside of North Carolina and Maryland, she has only a high-school education, and her work experience is limited to order-taking at fast-food restaurants. She indicates that medical problems have restricted her ability to work and that she relies on the applicant financially. The applicant’s wife also states that she requires medical care for her physical ailments, that she is currently under psychiatric care, and that she sees a psychiatrist every three to four weeks. She asserts that the applicant is “the rock that holds [her] together” and that the thought of him leaving makes her “anxious and depressed.” She states further that she has become suicidal, leading to a recent four-day crisis intervention and hospitalization.

The applicant’s wife states, in an affidavit dated September 24, 2013, that the applicant provides her with a place to live, pays for all utility and phone bills, provides her with money for her transportation to and from work. She indicates that she would be unable to pay bills or afford an apartment on her own because she is financially unstable. She also indicates that she is unable to work much due to her medical conditions. In addition, she states that the applicant helps her with

her medical bills and helps her with her medications. The applicant's wife asserts that since learning that the applicant might have to leave the country, she has had trouble sleeping and her blood pressure and sugar levels remain high. She also states that she would "rather just die" than see the applicant leave.

The record contains medical evidence reflecting that between 2010 and 2013, the applicant's wife was treated for diabetes, hypertension, hyperlipidemia, leg pain, amenorrhea, dermatitis, skin rashes, migraine headaches, and obesity. However, the medical evidence contains no statement or indication that the applicant's wife's physical conditions restrict her ability to work or care for herself or that these conditions have caused the applicant's spouse to rely upon the applicant for care.

Documentation submitted on appeal reflects that on January 29, 2014, the applicant's wife was referred by a therapist to a hospital for crisis intervention, and on February 3, 2014, she was admitted to the hospital's department of psychiatry for treatment based on signs of major depression, post-traumatic stress disorder, and diabetes. A hospital individual treatment plan also reflects that the applicant's wife was treated for high blood pressure and bronchitis on February 4, 2014. According to the individual treatment plan, the applicant's spouse reported poor sleep and depressed mood with anxiety, requiring medication. She also reported off-and-on depression since the birth of her seven-year-old child; and she reported that her depression worsened during the two weeks before her hospitalization and included suicidal thoughts due to custody and relationship stressors.

The applicant's wife's therapist states, in a letter dated June 18, 2014, that she is extremely concerned that the applicant's wife and her daughter would face possible hardship if the applicant were removed to Zambia. The therapist also expresses concern that the applicant's wife's conditions could worsen and that she could suffer "an exacerbation of her mental illness," placing her "at risk for hospitalization, losing custody of her daughter, and due to the severity of her past symptoms, even death"; because the applicant is the primary provider in their household, the applicant's wife is currently unable to work due to her mental disability, and the applicant's wife has no source of income pending a disability status claim with the State of Maryland.

Although the input of a mental health professional is respected and valuable, the record in this case lacks a formal psychological diagnosis for the applicant's spouse. In addition, the therapist's letter lacks informative details regarding the applicant's wife's mental condition and how it might be exacerbated if the applicant were denied admission into the country and she remained here. Similarly, although hospital records reflect that the applicant's spouse was referred for crisis intervention and treated for poor sleep and depressed mood with anxiety, the record lacks evidence indicating that psychological tests were conducted or that the applicant's wife was diagnosed with depression or another psychological condition. The record also lacks evidence establishing that the applicant was treated for depression before 2014 and does not corroborate assertions that the applicant has suffered from depression for over seven years. Further, although the applicant's spouse claims, in her June 24, 2014 affidavit, that she is currently under psychiatric care and sees a psychiatrist every three to four weeks, the applicant submits no evidence demonstrating that she regularly sees a mental health professional or that she requires ongoing psychiatric care.

The record also lacks sufficient evidence to establish that the applicant's wife is financially dependent upon the applicant, or that she would experience extreme financial hardship if she remained in the United States without the applicant. To address his wife's financial dependence, the applicant submits affidavits and statements from himself and his wife, as well as letters from his wife's therapist and from his apartment leasing office, bank statements, and his wife's 2008 and 2009 federal income tax returns. While the tax returns reflect that the applicant's wife earned under \$12,000 annually in 2008 and 2009, this evidence concerns her earnings over five years ago, before she married the applicant. Similarly, although a May 2013 letter from an apartment management office establishes that the applicant's wife's application, submitted before the applicant signed a lease with the same company, was denied due to her poor credit, it does not demonstrate that she is unable to work and support herself or that she financially depends on the applicant.<sup>1</sup> The bank statements also do not establish that the applicant's wife financially depends on the applicant, as they reflect minimal balances and provide no information demonstrating that payments were made to support the applicant's wife. The applicant also provides no medical bills and does not explain how he paid for his spouse's medical costs. In addition, the record lacks documentation showing that the applicant provides medical insurance to his wife. Further, although the record contains assertions that the applicant's wife is unable to work due to her medical conditions, the record lacks evidence reflecting a medical or other formal determination that the applicant's wife cannot work.

Overall, while the applicant's spouse may experience some degree of financial and emotional hardship if she were to remain in the United States without the applicant, the evidence, considered in the aggregate, is insufficient to establish that she is financially and emotionally dependent on the applicant or that she would suffer extreme emotional, physical or financial hardship if the applicant were denied admission into the United States.

The applicant also has not established that his wife would experience extreme hardship if she moved with him to Zambia. The applicant indicates in a statement submitted with the Form I-601 that unemployment is high in Zambia, it would be difficult to find work there, and his wife would experience "severe" economic hardship in Zambia. The applicant states further that his wife has medical ailments that require health care and monitoring, that his wife's medical problems have worsened recently, and that her health conditions "would be the kiss of death" in Zambia.

The applicant's wife states, in an affidavit dated September 24, 2013, that she would have to give up the medical care she receives in the United States if she moved with the applicant to Zambia; she would have to leave her daughter, mother and grandmother if she moved; and that she finds the idea depressing. She states further, in an affidavit dated June 26, 2014, that she cannot live in Zambia because the conditions there are primitive and there is no proper medical care.

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<sup>1</sup> The record contains the applicant's lease agreement for a term from June 1, 2013 to May 31, 2014, with a possession date of November 1, 2012, signed by the applicant on May 22, 2013. The lease agreement specifically limits the apartment occupancy to only the applicant. The May 2013 letter denying the applicant's wife's application for an apartment based on her poor credit rating does not explain why the applicant's lease does not include her as an occupant.

Although the record establishes that the applicant's spouse was born in the United States and includes references to emotional hardship that the applicant's wife would experience due to separation from her daughter, the applicant does not provide evidence, such as a birth certificate, to establish that the applicant's wife has a daughter. The record also lacks evidence establishing the applicant's wife's relationship with or custody status concerning her daughter. Further, the record lacks reliable country-conditions evidence to corroborate assertions that the applicant's wife would be unable to obtain suitable medical treatment in Zambia. The applicant refers to a newspaper article to support assertions that his wife would be unable to obtain proper medical care in Zambia. However, the Internet website he provides does not correspond to the news article. In addition, a copy of another alleged Internet article that the applicant submitted with the Form I-601 does not reflect that it is from the newspaper or any other publicly available source. It describes a child whose heart condition was misdiagnosed, the lack of awareness of cardiac issues in Zambia, and the Ministry of Health's intention to open a cardiac hospital. It does not concern medical issues the applicant's spouse is experiencing or otherwise concern the hardship she might experience in Zambia. The record contains no other evidence relating to medical care in Zambia.

In addition, the record lacks evidence to demonstrate that the applicant and his wife would be unable to find work in Zambia, that his wife would suffer extreme economic hardship there, or that his wife would suffer other hardship beyond that normally experienced upon relocation if she moved with the applicant to Zambia. Taking into account the cumulative evidence of hardships the applicant asserts on appeal, we conclude that he has not shown she would experience extreme hardship upon relocation to Zambia.

Although the applicant's wife's concern and anxiety over the applicant's immigration status is neither doubted nor minimized, the fact remains that Congress provided for a waiver of inadmissibility only under limited circumstances. In nearly every qualifying relationship, whether between husband and wife or parent and child, there is a deep level of affection and a certain amount of emotional and social interdependence. While, in common parlance, the prospect of separation or involuntary relocation nearly always results in considerable hardship to individuals and families, in specifically limiting the availability of a waiver of inadmissibility to cases of "extreme hardship," Congress did not intend that a waiver be granted in every case where a qualifying relationship, and thus the familial and emotional bonds, exist. The point made in this and prior decisions on this matter is that the current state of the law, viewed from a legislative, administrative, or judicial point of view, requires that the hardship, which meets the standard in section 212(i) of the Act, be above and beyond the normal, expected hardship involved in such cases. See e.g., *Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991); *Matter of Pilch*, 21 I&N Dec. at 627. In this case, the record does not contain sufficient evidence to show that the hardships faced by the applicant's wife, considered in the aggregate, rise beyond the common results of inadmissibility to the level of extreme hardship. The applicant has therefore failed to establish extreme hardship to his U.S. citizen spouse as required under section 212(i) of the Act. Having found the applicant ineligible for relief, we find no purpose would be served in discussing whether the applicant merits a waiver as a matter of discretion.

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*NON-PRECEDENT DECISION*

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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.