



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

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF L-A-M-G-

DATE: NOV. 3, 2015

APPEAL OF HOUSTON, TEXAS FIELD OFFICE DECISION

APPLICATION: FORM I-601, APPLICATION FOR WAIVER OF GROUNDS OF  
INADMISSIBILITY

The Applicant, a native and citizen of Colombia, seeks a waiver of inadmissibility. *See* Immigration and Nationality Act (the Act) § 212(i), 8 U.S.C. § 1182(i). The Director of the Houston, Texas Field Office denied the application. The matter is now before us on appeal. The appeal will be dismissed.

The Applicant was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for attempting to procure admission into the country by fraud or the willful misrepresentation of a material fact. The Applicant is the beneficiary of an approved Form I-130, Petition for Alien Relative, filed on his behalf by his U.S. citizen brother. He filed a Form I-601, Application for Waiver of Grounds of Inadmissibility, under section 212(i) of the Act, in order to reside in the United States with his family.

The Director determined that the Applicant did not establish that extreme hardship would be imposed on his U.S. lawful permanent resident mother if she remained in the United States or if she relocated with the Applicant to Colombia. The Form I-601 was denied accordingly. *See Decision of the Director*, dated December 10, 2014.

On appeal, the Applicant asserts that the evidence in the record demonstrates that his mother will experience extreme emotional, medical, and financial hardship if he is denied admission into the country and she remains in the United States or relocates to Colombia. In support of these assertions, the record includes, but is not limited to, an appeal brief, declarations from the Applicant's mother and brother, letters from employers and friends, financial and employment evidence, medical documentation, and country conditions information. The Applicant also submits documents establishing relationships and identity and family photographs. The entire record was reviewed and considered in arriving at a decision on the appeal.

Section 212(a)(6)(C) of the Act states, in pertinent part:

- (i) In general. 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 chapter is inadmissible.

Section 212(i) of the Act provides a waiver for fraud and material misrepresentation, and states that:

(1) 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 in 1993, the Applicant attempted to obtain a U.S. non-immigrant visa by presenting a false property deed as proof of his ties in Colombia. The Applicant is therefore inadmissible under section 212(a)(6)(C)(i) of the Act for attempting to procure a visa by willfully misrepresenting a material fact. The Applicant does not contest this 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 record establishes that the Applicant's lawful permanent resident mother is the only qualifying relative in this case. Hardship to the Applicant can be considered only insofar as it results in hardship to a qualifying relative. 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 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

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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 v. INS*, 138 F.3d 1292, 1293 (9<sup>th</sup> Cir. 1998) (quoting *Contreras-Buenfil v. INS*, 712 F.2d 401, 403 (9<sup>th</sup> 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 reflects that the Applicant's mother became a lawful permanent resident on June 13, 2013. She is therefore a qualifying relative for section 212(i) of the Act waiver purposes. In a declaration dated February 20, 2014, the Applicant's mother discusses her life in Colombia, stating that, although married, she raised her seven children on her own. She indicates that the applicant is her youngest child, and he took care of the home and of her as her older children began to move away. The Applicant's mother also indicates that she and the Applicant have a special bond and that the Applicant lived with her in Colombia even after he married, so that she would not be alone.<sup>1</sup> She states that after the Applicant moved to the United States, she moved to Spain, where her eldest daughters live, and she remained in Spain for 10 years. She states, however, that the climate and the absence of the Applicant and his children caused her to be depressed, so she decided to live with him

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<sup>1</sup> The Applicant's marriage certificate reflects that he married in Colombia on [REDACTED] 1998. His spouse's derivative adjustment of status application was denied on December 10, 2014.

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in the United States. The Applicant's mother further states that the Applicant has been her "greatest support" in critical situations in her life and that he is the person in her family with whom she has the closest bond. She states that the Applicant is in charge of her medical appointments and her daily needs. She also indicates that the Applicant's current inability to work due to his immigration status causes her to worry and affects her health.

The Applicant's older brother states that his mother lives with the Applicant and she suffers from various medical conditions. He states that the Applicant takes her to doctor's appointments, makes sure she takes her medications, and is her caretaker when she is ill. The Applicant's brother states that the Applicant has an emotional bond with their mother, and that separating them would increase their mother's risk of depression and anxiety and complicate her hypertension.

The Applicant's brother states in an affidavit dated December 23, 2014, that he is unable to care for or support his mother. He states that he is struggling financially, his wife's mother lives with his family and also requires care, and his wife is unable to drive and works inconsistently due to a medical condition that causes hand tremors. He also states that his children require extra care due to allergies and attention deficit disorder and that his mother and mother-in-law do not get along. He states further that the Applicant has a strong bond with their mother and is able to care for their mother.

The Applicant's wife's employer states in a letter dated January 30, 2015, that the Applicant's mother lives with and is being cared for by the Applicant and his family. In addition, a family friend, [REDACTED] states that the Applicant takes his mother to her medical appointments.

Medical evidence contained in the record lists the Applicant's mother's medications and reflects that the Applicant's mother has hypertension, insomnia, and gastritis and also has anxiety, hyperlipidemia, and diabetes mellitus. The Applicant also submits general articles on diabetes, hyperlipidemia, anxiety and various medications and on the availability of mental health services in the United States. A January 2014 medical record reflects that the Applicant's mother reported feelings of depression, hopelessness, and nervousness during an initial medical visit. A February 2014 medical report also reflects that the Applicant's mother complained of pain related to anxiety. Nevertheless, subsequent medical reports reflect that when the Applicant's mother was asked about symptoms of depression and anxiety during April and August 2014 medical visits, she replied that she was not experiencing the listed symptoms. The Applicant's mother also responded that she had no pain and was feeling well.

Although the record reflects that the Applicant's mother has several medical conditions, the medical records contain no explanation from a doctor about the severity of the Applicant's mother's conditions or her treatment needs. Moreover, the medical records do not indicate that the Applicant's mother needs the Applicant to take her to her medical appointments or demonstrate that she is dependent upon the Applicant for medical assistance or care. The record also does not reflect that Applicant pays for his mother's medical care or that she receives medical insurance through the Applicant. We also note that, although the Applicant's mother and brother indicate that she would

experience emotional hardship if separated from the Applicant due to their special bond, the record reflects that the Applicant's mother lived in Spain for at least ten years and moved to the United States about three years ago, and the record lacks independent evidence demonstrating any hardship that the Applicant's mother experienced during that time period. While we acknowledge that the Applicant's mother would experience emotional hardship upon separation from the Applicant, the evidence on the record does not establish the severity of this hardship or the effects on her daily life. The Applicant has not established that his mother would experience emotional hardship that rises above the common results of removal or inadmissibility if he is denied admission and his mother remains in the United States.

To establish financial hardship, the record contains documentation of the Applicant's spouse's employment, as well as the Applicant's and his spouse's 2013 income tax return reflecting total income in the amount of \$18,145. The evidence does not establish that the Applicant supports his mother financially, or that she is financially dependent upon the Applicant such that she would experience financial hardship if she remained in the United States without him. The record also contains no independent evidence to corroborate statements that the applicant's mother lives with the Applicant. It is also noted that, although the Applicant's mother states that she had seven children, the record does not indicate where most of these children live or whether the Applicant's mother is able to reside with another of the Applicant's siblings.

Upon review, the record contains insufficient evidence to establish that the Applicant's mother would experience emotional or medical hardship beyond that normally experienced upon inadmissibility of a family member if she remained in the United States, separated from the Applicant. The record also does not demonstrate that the applicant's mother is financially dependent upon the applicant or that she would experience financial hardship if she remained in the United States. Considering the evidence in the aggregate, the record is insufficient to establish that the Applicant's mother would experience extreme hardship if the Applicant is denied admission into the country and she remains in the United States.

The evidence in the record is also insufficient to establish that the Applicant's mother would experience extreme hardship if she relocated to Colombia with the Applicant. The Applicant's mother states that she has no family or economic resources in Colombia and that she cannot afford to live there. She indicates further, in a letter submitted on appeal, that she would not feel safe living in Colombia due to her advanced age and health and due to crime and gang activity there.<sup>2</sup>

The record contains no financial evidence to establish the Applicant's mother's assets or living expenses, or to corroborate claims that she would be unable to afford to live in Colombia if she relocated there with the Applicant. The record also lacks evidence demonstrating that the

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<sup>2</sup> There are no other claims made by the Applicant's mother or family members with regard to hardship that the Applicant's mother would suffer if she moved to Colombia.

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Applicant's mother would be unable to obtain adequate health care in Colombia. To corroborate the Applicant's mother's safety concerns, the Applicant submits a Department of State travel warning and articles on the conditions of elderly persons displaced by the civil conflict and violence in Colombia. Although the travel warning states that "violence linked to narco-trafficking continues to affect some rural and urban areas," and that kidnapping remains a threat, it also clarifies that incidents of kidnapping have "diminished significantly" from their peak in 2000. *See DOS Colombia Travel Warning*, dated November 14, 2014. The warning clarifies further that "security in Colombia has improved significantly in recent years, including in tourist and business travel destinations such as . . . [redacted]" *Id.* We note that according to the Applicant's mother's declaration, she and her family lived in [redacted] before leaving Colombia. Overall, considering the evidence in the aggregate, the record does not establish that the Applicant's mother, a native of Colombia, would experience hardships that would rise above the common results of removal or inadmissibility to the level of extreme hardship if she relocated with the applicant to Colombia.

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. The Applicant has therefore not established extreme hardship to a qualifying relative, 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.

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.

Cite as *Matter of L-A-M-G-*, ID# 12790 (AAO Nov. 3, 2015)