



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

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

MATTER OF R-K-L-

DATE: JAN. 6, 2016

APPEAL OF ATLANTA FIELD OFFICE DECISION

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

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

On April 20, 2015, the Director determined that the Applicant was inadmissible to the United States under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for having procured entry to the United States by fraud or willful misrepresentation. The Director concluded that the Applicant failed to establish that extreme hardship would be imposed on a qualifying relative. The Form I-601, Application for Waiver of Grounds of Inadmissibility, was denied accordingly.

In support of the appeal, the Applicant submits a brief, medical and financial documents, and country conditions information. The record was reviewed and considered in its entirety in rendering this decision.

Section 212(a)(6)(C)(i) of the Act states:

- (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.

With respect to the Director's finding of inadmissibility, the record establishes that the Applicant entered the United States on November 15, 1990, by presenting a fraudulent permanent resident card. The Applicant does not contest this finding of inadmissibility. Rather, he seeks a waiver of inadmissibility in order to reside in the United States with his claimed qualifying relative.

Section 212(i) of the Act provides:

- (1) The Attorney General may, in the discretion of the Attorney General, 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 Attorney General 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. . . .

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 asserts that his qualifying relative is his lawful permanent resident spouse. However, the record does not establish that a legal marriage exists between the Applicant and the person identified as his spouse. While the Applicant and the person identified as his spouse have stated in affidavits and prior applications that they were married in China, the Applicant has not provided documentation of a legal marriage, specifically, a notarial marriage certificate. We note that an immigration judge, in a decision dated August 30, 1999, more than sixteen years ago, also found that there was no evidence of a legal marriage between the Applicant and the person identified as his spouse. Accordingly, the Applicant has not established that the person identified as his spouse is a qualifying relative. He has not asserted, and the record does not indicate, that he has any other qualifying relative under section 212(i) of the Act, and therefore he is ineligible for a waiver.

Even if we were to determine that the Applicant had established a legal marriage to a lawful permanent resident, which is not the case here, we find that the Applicant has not established that the claimed qualifying relative would suffer extreme hardship if the waiver is not granted. The definition of extreme hardship "is not . . . fixed and inflexible, and the elements to establish extreme hardship are dependent upon the facts and circumstances of each case." *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565 (BIA 1999) (citation omitted). Extreme hardship exists "only in cases of great actual and prospective injury. . . [.] and while an analysis of a given application includes a review of all claims put forth in light of the facts and circumstances of a case, such analysis does not extend to discovery of undisclosed negative impacts." *Matter of Ngai*, 19 I&N Dec. 245, 246-47 (BIA 1984). The common consequences of removal or refusal of admission, which include "economic detriment . . . [.] loss of current employment, the inability to maintain one's standard of living or to pursue a chosen profession, separation from a family member, [and] cultural readjustment" are insufficient alone to constitute extreme hardship. *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996) (citations omitted); *see also Matter of Shaughnessy*, 12 I&N Dec. 810 (BIA 1968) (separation of family members and financial difficulties alone do not establish extreme hardship). Nevertheless, all "[r]elevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists." *Matter of Ige*, 20 I&N Dec. 880, 882 (BIA 1994) (citations omitted).

The claimed qualifying relative, identified as the Applicant's lawful permanent resident spouse on the Form I-601, asserts that she would experience financial, emotional, and physical hardship were she to remain in the United States while the Applicant relocates abroad due to his inadmissibility. In a statement, she explains that she is 61 years old, and that she married the Applicant in 1972. She describes herself as dependent on their combined income in order to pay for medical bills and other

expenses and dependent on the Applicant for emotional support. She describes suffering various health problems, including anxiety and psychosis due to her medical condition, an abnormal mammogram, and high cholesterol.

We acknowledge the contentions in the record that the Applicant's claimed qualifying relative will experience emotional hardship were she to remain in the United States while the Applicant relocates abroad, but the record does not establish the severity of this hardship or the effects on her daily life. The record establishes that the Applicant and the claimed qualifying relative lived apart from 1990 until 2009, when she immigrated to the United States from China at the age of 54. Any prior hardships she endured as a result of her 19-year separation from the Applicant, such as financial difficulties, emotional struggles, or health problems, are not indicated by the record. The documentation regarding her 2014 visit to a counselor in the United States consists only of a receipt, and it is unclear that the diagnostic code reflects that an actual evaluation was conducted or a diagnosis made. As for the medical documentation submitted, said documentation indicates that the Applicant's claimed qualifying relative suffers from high cholesterol and abnormal breast calcification, and that she has been examined for other ailments previously. However, the documentation does not establish the severity of the situation, the short and long-term treatment plan, and what specific hardship she will experience were the Applicant to reside abroad. We note that the physician's letter states that the Applicant's claimed qualifying relative relies on her daughter for transportation and interpretation for medical appointments. The treating physician makes no reference to what involvement the Applicant has, if any, in the claimed qualifying relative's care and support.

Regarding prospective financial hardship, the Applicant's claimed qualifying relative indicates that she earns over \$20,000 per year as a cashier and helper. The Applicant has not submitted any documentation on appeal establishing his current financial contributions to the household. Nor has the Applicant submitted documentation establishing their expenses, assets, and liabilities, to establish that without his continued financial contributions, the claimed qualifying relative will experience financial hardship. Alternatively, it has not been established that the Applicant is unable to obtain gainful employment abroad that would permit him to assist the claimed qualifying relative should the need arise.

We note that the Applicant's claimed qualifying relative has a support network in the United States, including two adult children. She has another adult child still residing in China. The record indicates that the Applicant's daughter continuously assists her mother here in the United States, and there is no evidence that she would cease to do so if the Applicant returned to China. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)). The Applicant has thus not established that his claimed qualifying relative would experience extreme hardship were she to remain in the United States while he relocates abroad as a result of his inadmissibility.

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In regard to relocating abroad to reside with the Applicant as a result of his inadmissibility, the Applicant's claimed qualifying relative maintains that she is unable to travel to China due to her health, her anxiety and psychosis, and her concerns about crime. As noted above, without supporting documentation, these assertions are insufficient to establish extreme hardship. As previously noted, one of the Applicant's children resides in China, and the claimed qualifying relative lived there for over 50 years. While the record contains news articles and reports regarding conditions in China, the information is general in nature and does not establish that the Applicant's claimed qualifying relative would experience extreme hardship were she to relocate to China, the country where she was born and lived for the majority of her life, to reside with the Applicant.

As the Applicant has not demonstrated extreme hardship to a qualifying relative or relatives, we need not consider whether the Applicant warrants a waiver in the exercise of discretion.

The Applicant has the burden of proving eligibility for a waiver of inadmissibility. *See* section 291 of the Act, 8 U.S.C. § 1361. The Applicant has not met that burden. Accordingly, we dismiss the appeal.

ORDER: The appeal is dismissed.

Cite as *Matter of R-K-L-*, ID# 14936 (AAO Jan. 6, 2016)