



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

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

MATTER OF S-Q-C-

DATE: MAR. 16, 2016

APPEAL OF CINCINNATI FIELD OFFICE DECISION

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

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

In a decision dated March 19, 2015, the Director concluded that the Applicant had not established that a qualifying relative would experience extreme hardship due to his inadmissibility.

On appeal, the Applicant asserts that the Director's decision was in error and that his spouse will experience financial, medical, psychological, educational, and other hardships which rise to the level of extreme if the Applicant is removed and she remains in the United States. The Applicant also asserts that his spouse will experience physical, financial and psychological impacts rising to the level of extreme hardship if she were to relocate to Pakistan with the Applicant.

The Applicant submitted additional documentation on appeal, including a psychological assessment of his spouse; background materials on the conditions in Pakistan; tax filings; medical records for the Applicant's son, daughter and ex-spouse; employment letters for the Applicant and his spouse; copies of bills, medical invoices and other documentation related to their financial obligations; copies of birth certificates, marriage certificates, divorce decrees and court ordered custody records; and statements from friends and family members of the Applicant and his spouse.

Section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), provides:

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.

The record indicates that in 1991, the Applicant submitted a Form I-485, Application to Register or Adjust Status, claiming that he had been residing in the United States since 1971 and was eligible for registry under section 249 of the Act as an individual who has resided in the United States continuously since January 1, 1972. The Applicant subsequently admitted that the documentation he submitted was false, the name he used was false, and he had arrived in the United States in June

1991 as a crewmember. On October 30, 1992, the Applicant filed a Form I-589, Application for Asylum and for Withholding of Removal, under his true name, stating that he had departed Pakistan in 1992 and failing to disclose that he had been placed in deportation proceedings under the false name given on his application for registry. He was granted asylum in 1994, but his asylum was rescinded in 2012 because the Immigration and Naturalization Service did not have jurisdiction when it granted the application because he was in deportation proceedings at the time. Based on these facts, we concur with the Director's finding that the Applicant is inadmissible pursuant to section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for seeking to procure an immigration benefit through fraud or misrepresentation. The Applicant does not contest this finding on appeal.

Section 212(i)(1) of the Act, 8 U.S.C. § 1182(i)(1), provides that section 212(a)(6)(C)(i) inadmissibility may be waived as a matter of discretion for

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 . . . that the refusal of admission . . . would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien, or, in the case of a VAWA self-petitioner, the alien demonstrates extreme hardship to the alien or the alien's United States citizen, lawful permanent resident, or qualified alien parent or child.

The Applicant must demonstrate that denial of the application would result in extreme hardship to a qualifying relative or relatives. In this case, the qualifying relative is his spouse. Hardship to the Applicant or others can be considered only insofar as it results in hardship to a qualifying relative. *Matter of Gonzalez Recinas*, 23 I&N Dec. 467, 471 (BIA 2002).

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," *Matter of Ngai*, 19 I&N Dec. 245, 246-47 (BIA 1984), but hardship "need not be unique to be extreme." *Matter of L-O-G-*, 21 I&N Dec. 413, 418 (BIA 1996). 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); *but see Matter of Kao and Lin*, 23 I&N Dec. 45, 51 (BIA 2001) (distinguishing *Matter of Pilch* 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 the qualifying relatives would relocate). 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).

On appeal, the Applicant asserts that his spouse will experience extreme physical, psychological and financial hardship if he is removed. He explains that he is the primary income earner in the family and that his spouse would be unable to meet their financial obligations if he is removed. The Applicant also explains that he has three children in the United States, including a biological son with his current spouse, and states that he is still very involved in all of their lives. The Applicant explains that his older daughter has mental health issues and that the son with his current spouse also suffers from asthma, rhinitis and obesity, and that if he were removed, his spouse would experience physical hardship from the additional parenting duties. He states that his spouse does not drive and has struggled to maintain employment and that without him in the United States to assist her with parental duties, the Applicant's son's hardship would result in hardship on his spouse. The Applicant also asserts that his ex-spouse, with whom he has two children, has a rare blood disorder and would only trust the Applicant with the care of their children if she passed away.

The Applicant's spouse asserts that she is a housewife and does not work or drive, that she would be very worried that the Applicant would be killed in a dangerous country and that she has thoughts of harming herself because of suicidal stress induced by the Applicant's immigration status. She further states that she cannot depend on her family in the United States for any support in the event the Applicant is removed.

The record contains a recent psychological evaluation of the Applicant's spouse. The report diagnoses her with Persistent Depressive Disorder with anxious distress – severe. The report states that she scored in the severe range of depression, confirms suicidal ideation, and recommends medication and group therapy, noting that the presence of anxious distress correlates to a higher suicide risk. The report further concludes that she is emotionally fragile, and separation from the Applicant and the loss of his support could put her emotional stability at risk. The report is dated April 16, 2015 and indicates that she began treatment with another psychologist at the same facility in 2014 and attended five sessions.

With regard to the hardship impacts on the Applicant's son, we note hardship to the Applicant or others can be considered only insofar as it results in hardship to a qualifying relative. *Matter of Gonzalez Recinas*, 23 I&N Dec. 467, 471 (BIA 2002). In this case the Applicant has asserted that his son has had severe asthma and rhinitis since the age of one, and that without treatment his condition becomes critical and he has to visit the emergency room. The Applicant states that his son has been to an emergency room at least five times for his respiratory issues. He also asserts that his son suffers from obesity.

The record contains medical records from hospitalizations and emergency room visits pertaining to the Applicant's son and spanning back to his birth. Documentation from a 2008 emergency room visit states the Applicant's son had a history of asthma, and that the reason for the current visit was asthma exacerbation. Medical records from 2012 to 2013 state that the Applicant's son was treated for asthma, was hospitalized three times, and visited the emergency room five times in the past year. An assessment from an April 2013 visit states that he has been taking medication on a daily basis to

control his symptoms and had needed 2 to 3 doses of his asthma medication in the past month, but at the time had not had any severe exacerbations. The treatment plan recommended continued use of one medication and the scheduling of a follow-up visit and that the asthma inhaler be available at home and at school. We also note that evidence in the record indicates the Applicant's spouse and son receive medical insurance through the Applicant, and if he leaves, the loss of this health insurance would impose an additional financial hardship on the Applicant's spouse due to her son's medical conditions.

With regard to the financial hardship that the Applicant's spouse would experience, the record contains tax returns, employment letters and statements from the Applicant and his spouse regarding their finances. While there is evidence that the Applicant's spouse has been working since 2014, tax records indicate that the Applicant is the primary source of income for their family. There are also copies of medical invoices and utility bills supporting the assertions of financial obligations. The psychological evaluation discussed above also mentions the Applicant's spouse's diminished intellectual capacity, a relevant factor when considering her ability to find sufficient employment to support herself and her son if the Applicant were removed. Documentation submitted by the Applicant demonstrates that he and his spouse have incurred medical bills in relation to the medical condition of his son. Based on the evidence that has been presented, we can determine that the Applicant's spouse would experience a financial impact due to the Applicant's removal.

The record establishes that the Applicant's spouse suffers from severe depression and that her emotional stability would be at risk if she were separated from the Applicant. This condition would cause her to experience an uncommon hardship as a single parent with a child that requires medical attention. When combined with the financial hardship that would result if the Applicant departed the United States, the emotional hardships the Applicant's spouse would experience due to separation from the Applicant would rise to the level of extreme.

On appeal, the Applicant asserts that his spouse would experience financial, physical and psychological hardships rising to the level of extreme hardship upon relocation to Pakistan. The Applicant explains that Pakistan is a violent country, with diminished access to medical care outside the major cities and the threat of violence against Americans and Christians due to the religious violence there. He states that the medical conditions of his son would impose an additional hardship on his spouse upon relocation. The Applicant also points to the lower wages in Pakistan, stating that he would not be able to achieve a decent standard of living for his family or provide necessary healthcare for their son. He also states that his son would not have equal educational opportunities in Pakistan, and cites to *Matter of Kao and Lin*, 23 I&N Dec. 45 (BIA 2001), as precedent for considering relocation a hardship to his son based on his lifelong residence in the United States.

The Applicant refers to a State Department Travel Warning for Pakistan, as well as Human Rights Watch and Amnesty International reports on Pakistan and other background materials. He asserts that his spouse is Christian, and because of this she will be at risk in Pakistan's troubled social environment and would not be able to exercise her religious freedom. He states that his son would suffer because Pakistan's healthcare system is below U.S. standards and that emergency medical

*Matter of S-Q-C-*

services are not widely available in Pakistan, resulting in a hardship to both his son and his spouse because of his son's need for emergency services.

The Applicant's spouse has stated in a letter that her children will not have a good education in Pakistan or health care coverage of any kind, that she is concerned that she will be targeted or killed because she is a U.S. citizen and a Christian, and that she would not be able to practice her religion freely if she relocated to Pakistan.

The medical evidence regarding the Applicant's son, discussed above, indicates that he will need medical care and prescription medications to treat his medical conditions. The U.S. State Department Travel Information submitted into the record indicates that the availability of basic medical services is limited in rural areas and in most cases will have a lower standard of quality than the United States. The warning also notes that there is no medical insurance in Pakistan and hospitals do not accept credit cards. This will result in an indirect hardship to his mother, the qualifying relative in this case, because she will have to seek medications and medical services which may not be available or affordable.

The U.S. State Department Travel Warning for Pakistan, issued on August 28, 2015, warns U.S. citizens against all non-essential travel to Pakistan. The Travel Warning discusses the presence of foreign and indigenous terrorist groups which target westerners, particularly in the tribal territories of the northwest frontier and [REDACTED]. Human rights reports and other background information submitted into the record document restrictions on religious freedom in the country and also discuss terrorist attacks on areas populated by westerners. An Amnesty International report in the record discusses the corruption in Pakistan, the violence against westerners and women, discrimination against women and Christians and other societal abuses. They also discuss the economy of Pakistan generally and the wage and working conditions in the country. Based on these background materials we find the record to support the Applicant's assertion that his spouse would experience hardships adjusting to Pakistan's social and economic conditions because she would be at risk of religious violence as a Christian and possibly targeted for kidnapping or extortion because she is from a western country.

The Applicant has asserted that he would not be able to earn a living wage in Pakistan and compares the Pakistani minimum wage to U.S. wages. As discussed above, the background materials on Pakistan discuss the wage and labor conditions in Pakistan, including low wages, discrimination and corruption. We also take note of the Applicant's age, 60, and the fact that he has not resided in Pakistan since 1991. The State Department's Country Report on Human Rights Practices for Pakistan further details societal discrimination against women in Pakistan and supports the assertion that the Applicant's spouse would also likely experience discrimination in attempting to find employment in Pakistan.

As noted above, the Applicant's son has a respiratory condition that requires medication and routine medical visits, representing an additional financial cost to the Applicant and his spouse if they were to relocate. Based on the Applicant's age, his long term residence in the United

States, and the economic conditions in Pakistan, we can conclude the Applicant will face difficulty finding employment in Pakistan and his spouse will experience financial hardship upon relocation to Pakistan as a result.

We note that the Applicant's spouse has resided in the United States for a significant period of time and would experience hardships adjusting to Pakistan because she is a Christian and does not speak Urdu. The record indicates that the Applicant's spouse was raised in American Samoa and has resided in the United States since at least 2000. We note that she has family ties in the United States as her family members reside in Kentucky, and there is no indication that she has ever been to Pakistan. She has expressed concern over the violence against Christians and westerners in Pakistan and fears that she would be unable to obtain adequate treatment for her son's medical conditions. In addition to these hardships, we have noted that she will experience financial hardship because she and the Applicant will be faced with social discrimination and having to acculturate after long residences in the United States. When the hardships upon relocation are examined in the aggregate, we can conclude that the Applicant's spouse will experience physical, financial and emotional hardship which aggregates to a degree of extreme hardship upon relocation.

We now consider whether the Applicant merits a waiver of inadmissibility as a matter of discretion. The burden is on the Applicant to establish that a waiver of inadmissibility is warranted in the exercise of discretion. *See Matter of Mendez-Morales*, 21 I&N Dec. 296, 299 (BIA 1996). We must "balance the adverse factors evidencing an alien's undesirability as a permanent resident with the social and humane considerations presented on the alien's behalf to determine whether the grant of relief in the exercise of discretion appears to be in the best interests of the country." *Id.* at 300 (citations omitted). In evaluating whether to favorably exercise discretion,

the factors adverse to the alien include the nature and underlying circumstances of the exclusion ground at issue, the presence of additional significant violations of this country's immigration laws, the existence of a criminal record, and if so, its nature, recency and seriousness, and the presence of other evidence indicative of the alien's bad character or undesirability as a permanent resident of this country. The favorable considerations include family ties in the United States, residence of long duration in this country (particularly where alien began residency at a young age), evidence of hardship to the alien and his family if he is excluded and deported, service in this country's Armed Forces, a history of stable employment, the existence of property or business ties, evidence of value or service in the community, evidence of genuine rehabilitation if a criminal record exists, and other evidence attesting to the alien's good character (e.g., affidavits from family, friends and responsible community representatives).

*Id.* at 301 (citations omitted). We must also consider "[t]he underlying significance of the adverse and favorable factors." *Id.* at 302. For example, we assess the "quality" of relationships to family, and "the equity of a marriage and the weight given to any hardship to the spouse is diminished if the parties married after the commencement of [removal] proceedings, with knowledge that the alien might be [removed]." *Id.* (citation omitted).

*Matter of S-Q-C-*

The negative factors in this case to include the Applicant's fraud and misrepresentations in connection with his applications for registry and asylum. The positive factors in this case include the presence of the Applicant's spouse and children in the United States, the length of time the Applicant has resided in the United States (25 years), the extreme hardship that the Applicant's spouse would experience, letters of support from friends and co-workers, and the lack of any criminal record for the Applicant during his residence in the United States. We find that the positive factors outweigh the negative factors in this case, and that a favorable exercise of discretion is warranted.

In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has been met.

**ORDER:** The appeal is sustained.

Cite as *Matter of S-Q-C-*, ID# 15734 (AAO Mar. 16, 2016)