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

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

MATTER OF I-I-S-

DATE: OCT. 3, 2016

APPEAL OF CHICAGO, ILLINOIS FIELD OFFICE DECISION

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

The Applicant, a native and citizen of Ukraine, seeks a waiver of inadmissibility for fraud or misrepresentation. *See* Immigration and Nationality Act (the Act) § 212(i), 8 U.S.C. § 1182(i). A foreign national seeking to be admitted to the United States as an immigrant or to adjust status to lawful permanent residence must be admissible or receive a waiver of inadmissibility. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver if refusal of admission would result in extreme hardship to a qualifying relative or qualifying relatives.

The Field Office Director, Chicago, Illinois, denied the application. The Director concluded that the Applicant was inadmissible for misrepresentation and for having previously been removed and seeking admission within five years of that removal. The Director also concluded that the Applicant had not established extreme hardship to a qualifying relative.

The matter is now before us on appeal. In the appeal, the Applicant claims that it was reversible error for the Director to find that the Applicant had not established extreme hardship to his spouse and children.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

The Applicant is seeking to adjust status to lawful permanent resident and has been found inadmissible for a fraud or misrepresentation. Specifically, the Applicant attempted to enter the United States with a passport in the name of another person in February 2002. The Applicant was ordered removed pursuant to section 235(b)(1) of the Act and was convicted of unlawful entry by false statement, 8 U.S.C. § 1325(a)(3), in the United States District Court for the [REDACTED] on [REDACTED] 2002.<sup>1</sup> He was deported in [REDACTED] 2002, and in April 2002,

<sup>1</sup> The Director indicated this conviction was for a crime involving moral turpitude, but did not find the Applicant inadmissible under section 212(a)(2)(A) of the Act, 8 U.S.C. § 1182(a)(2)(A), for having been convicted of a crime involving moral turpitude. The record indicates that the maximum sentence for this crime is six months imprisonment. This conviction therefore does not render the Applicant inadmissible because it falls under the petty offense exception at

he again sought admission to the United States with a fraudulent passport and was inspected and admitted.

Section 212(a)(6)(C)(i) of the Act renders inadmissible any foreign national 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 the Act.

Section 212(i) of the Act, 8 U.S.C. § 1182(i), provides for a waiver of this inadmissibility if refusal of admission would result in extreme hardship to the United States citizen or lawful permanent resident spouse or parent of the foreign national.

Decades of case law have contributed to the meaning of extreme hardship. 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). An applicant must demonstrate that claimed hardship is realistic and foreseeable. *Id.*; see also *Matter of Shaughnessy*, 12 I&N Dec. 810, 813 (BIA 1968) (finding that the respondent had not demonstrated extreme hardship where there was “no showing of either present hardship or any hardship . . . in the foreseeable future to the respondent's parents by reason of their alleged physical defects”). 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); 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). 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).

## II. ANALYSIS

The issue presented on appeal is whether the Applicant has established extreme hardship to a qualifying relative. The Applicant has claimed his spouse will experience economic, psychological

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section 212(a)(2)(A) of the Act, which provides that inadmissibility does not apply to a foreign national who committed only one crime if the maximum penalty possible for the crime did not exceed imprisonment for one year and the alien was not sentenced to a term of imprisonment in excess of 6 months.

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and physical hardships rising to the level of extreme hardship. On appeal, the Applicant claims that the Director erred in not finding extreme hardship to the Applicant's spouse and children. The Applicant states that hardship to the Applicant's children should have been considered and that the conditions in the Ukraine would result in extreme hardship to the Applicant's spouse if she relocated. Upon review of the record we find that there is insufficient evidence to establish extreme hardship to a qualifying relative. We will dismiss the appeal.

In this case, the Applicant must demonstrate that denial of the application would result in extreme hardship to his spouse in order to qualify for a waiver under section 212(i) of the Act.

The Applicant has claimed that his spouse will experience financial, physical and psychological hardships rising to the level of extreme hardship. The Applicant claims his spouse has no ties outside the United States, suffers from several medical conditions and relies on him for emotional and financial support. He has claimed that his spouse underwent treatment for a heart attack and without him she could not survive, that his spouse sees a psychologist for issues and that his presence is highly necessary for her mental health. He further claims that he is the primary income earner, and that his children are in school and in need of his constant support.

The Applicant has referenced the conflict in his home country of Ukraine and says that it would be extreme hardship for himself and his family if they returned there. He states it would be a hardship for his children to return to the Ukraine and to raise them there, and that his spouse has been in the United States for a long time and she would have to give up her career as a registered nurse if she were to relocate to the Ukraine.

The Applicant's spouse has submitted a letter stating that her children are about to enter university and she will not be able to support them without the Applicant's help. She claims that if the Applicant returned to the Ukraine she would be unable to care for her children and would suffer extreme emotional damage from the separation. She states that she cannot move to the Ukraine because she has no means of support there, no property or any chance to find a job in the Ukraine. She states the economic situation is poor in the Ukraine and that the medical system is below U.S. standards.

The record contains documentation from [REDACTED] to support the Applicant's claim that his spouse has suffered a heart attack and needs his assistance. These documents do not reference any episode of cardiac arrest for the Applicant's spouse, and a document labeled "final report" indicates that all administered tests were returned as "Normal." There is no statement in the record from a medical doctor stating that the Applicant's spouse has had a heart attack or that she suffers from a heart condition or any serious medical condition. The Applicant's spouse herself does not reference any episode of cardiac arrest or any medical condition. The record does not contain evidence corroborating the Applicant's claim that his spouse had a heart attack or suffers from a coronary condition, or suffers from any physical medical condition.

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The Applicant has claimed on appeal that hardship to his children should be considered insofar as it results in hardship to his spouse. The Applicant's son and daughter were born in [REDACTED] and [REDACTED] respectively, and are adults. The record does not contain evidence that they are unable to seek employment and support themselves financially. The Applicant's son and daughter have submitted statements discussing their emotional bonds with the Applicant and how he has supported them, but does not otherwise establish any hardship to them or the Applicant's spouse. The record does not contain evidence distinguishing any emotional hardship to the Applicant's son or daughter if the Applicant returned to Ukraine from the hardship which is commonly experienced due to the inadmissibility of a family member. The record does not support a determination that the Applicant's spouse would experience any hardship due to hardship to the Applicant's son or daughter.

With regard to financial hardship to the Applicant's spouse, the Applicant has claimed that he is the primary income earner. There are no W-2 forms for the Applicant which establishes what income he earns. The record contains documentation to establish that the Applicant and his spouse have financial obligations, such as a mortgage statement, electricity bills and insurance statements. The record also contains tax filings which indicate that the Applicant and his spouse made: \$99,057 in 2014, \$67,395 in 2013, and \$30,086 in 2011. The record includes W-2 forms for the Applicant's spouse, indicating that she made: \$94,954 in 2014 and \$43,475 in 2013. The amount of earnings attributed to the Applicant's spouse is inconsistent with the Applicant's assertion that he is the primary income earner. While it is clear there will be financial effects on the Applicant's spouse if the Applicant is removed, the depth or level of financial hardship to the Applicant's spouse is not clear.

The Applicant has claimed that his spouse would experience psychological hardship if he is removed. The record contains a single document in support of this claim, a brief letter from a psychologist dated in 2012. The letter states that the Applicant, his spouse and their children have been seen several times, and that the Applicant's spouse has reported feeling tired, sad, depressed and agitated. The letter concludes that if she has to deal with the Applicant's removal it would raise her stress level and trigger another depressive episode. The statement does not diagnose her with a mental health condition, or fully explain the basis of the author's conclusion. Although this document indicates there will be an emotional effect on the Applicant's spouse if the Applicant is removed, it does not allow us to draw a distinction from the hardship typically associated with the removal of a family member.

With regard to hardship upon relocation, the record contains background documentation on the conditions in Ukraine. The Country Reports on Human Rights Practices in Ukraine, published by the U.S. State Department, describes human rights violations in Ukraine, but the Applicant has not described any specific threat to his safety or that of his spouse, who is originally from Ukraine. There is no other documentation in the record supporting the Applicant's spouse's claim that she would be unable to find employment in Ukraine. As discussed above, there is insufficient evidence establishing the Applicant's spouse suffers from any medical condition or what medications she is

required to take. Based on these observations, the record does not establish that the Applicant's spouse would experience hardship based on conditions in Ukraine.

When the evidence of hardship in the record is examined in the aggregate, it is insufficient to demonstrate hardships rising to the level of extreme. The record does not support a determination that the Applicant's spouse will experience extreme hardship.

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

### III. CONCLUSION

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. The record establishes that the Applicant is inadmissible for misrepresentation. The record does not demonstrate that the Applicant's spouse will experience extreme hardship due to his inadmissibility.

**ORDER:** The appeal is dismissed.

Cite as *Matter of I-I-S-*, ID# 118665 (AAO Oct. 3, 2016)