



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

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

MATTER OF C-A-M-P-

DATE: OCT. 4, 2016

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

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

The Applicant, a native and citizen of El Salvador, 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 that of a lawful permanent resident (LPR) 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 Director, Los Angeles, California Field Office, denied the application. The Director concluded that the Applicant did not establish that his mother, who is a qualifying relative in this case, would experience extreme hardship if the waiver application was denied. We denied a subsequent appeal, finding that the Applicant did not demonstrate extreme hardship to his mother upon denial of his waiver application. On motion, the Applicant submitted additional evidence consisting of a psychological evaluation of his mother and financial documents. We considered this new evidence and affirmed our decision to dismiss the appeal, finding that the evidence considered in the aggregate was insufficient to establish that the Applicant's mother would experience extreme hardship upon denial of his waiver application. With his next motion, the Applicant resubmitted evidence and submitted a new brief, in which he restated previously asserted claims. Because these statements and documents had been previously considered and the Applicant did not show that our previous decision was in error, we denied both his motion to reconsider and his motion to reopen.

The Applicant now submits a third motion. With his motion to reopen and reconsider he submits: a previously filed psychological evaluation for his mother, identity documents, financial documents, medical documents, and country conditions information for El Salvador.

The motion will be granted and the appeal sustained. The evidence now establishes that the Applicant's mother would experience extreme hardship if the Applicant's waiver is denied.

I. LAW

The Applicant is seeking to adjust status to that of an LPR and has been found inadmissible for attempting to procure an immigration benefit through fraud or material misrepresentation. 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

We have reviewed the arguments regarding the claims of hardship to the Applicant’s lawful permanent resident mother and find that the new evidence together with the previous evidence submitted indicates that she would suffer extreme hardship as a result of his inadmissibility.

### A. Hardship

The record indicates that the Applicant’s mother suffered a traumatic childhood and adolescence, which continues to affect her mental state in the form of depression and general anxiety. Medical records indicate that the Applicant’s mother also suffers from gastrointestinal problems for which she receives ongoing treatment. The record indicates that the Applicant and his mother were separated for 13 years and that being reunited in the United States was very important to the Applicant’s mother and she feels a very strong bond with her son as a result. The record shows that

the Applicant's mother is married and that she and her husband both contribute to the household expenses, but she states that they also rely on the Applicant for financial support. The record indicates that the Applicant's mother fears separation from her son because of the conditions he will face in El Salvador; the financial assistance he will need in El Salvador, which she states she will not be able to provide; and the emotional hardship that would result given her already fragile mental health. The record does not indicate that the Applicant's mother plans to relocate to El Salvador if her son is not granted a waiver.

The record shows that the Applicant's mother earns approximately \$2,000 per year operating a magazine stand, her husband works fulltime earning \$9.00 per hour, and the Applicant works fulltime earning \$12.42 per hour. The record does not document the financial support the Applicant reportedly gives to his mother. However, the record does support a finding of extreme emotional hardship to the Applicant's mother if her son is not granted a waiver. The record establishes the Applicant's mother's history of depression and anxiety as well as the violent crime and poverty in El Salvador that her son will face if his waiver is not granted. In addition, the U.S. Department of State has issued a current travel warning for El Salvador warning U.S. citizens that crime and violence levels in the country remain critically high. The news articles and country reports submitted by the Applicant also reflect these circumstances. The Applicant's mother claims that having her son reside in a country with these conditions would cause extreme emotional hardship.

We also acknowledge that the record shows the Applicant's mother has been to El Salvador for medical treatment as recently as 2015. She states that she traveled there for medical treatment because she could not afford treatment in the United States. But we also recognize that short visits to El Salvador for medical treatment do not equate with relocating permanently to the country. The record shows that in 2015 the Applicant's mother was approved for health care coverage in the United States.

In light of the Applicant's mother's medical and psychological conditions, considered together with her concerns about conditions in El Salvador, we find that she will suffer extreme hardship as a result of the Applicant's inadmissibility.

#### B. Discretion

We also find that the Applicant warrants a favorable exercise of discretion. The burden is on the Applicant to establish that a waiver of inadmissibility is warranted in the exercise of discretion. *Matter of Mendez-Morales*, 21 I&N Dec. 296, 299 (BIA 1996). We must balance the adverse factors evidencing the Applicant's undesirability as a lawful permanent resident with the social and humane considerations presented 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). The adverse factors include the nature and underlying circumstances of the inadmissibility ground(s) at issue, the presence of additional significant violations of immigration laws, the existence of a criminal record, and if so, its nature, recency and seriousness, and the presence of other evidence indicative of bad character or undesirability. *Id.* at 301. The favorable considerations include family ties in the United States,

*Matter of C-A-M-P-*

residence of long duration in this country (particularly where residency began at a young age), evidence of hardship to the foreign national and his or her family, service in the U.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 good character. *Id.*

The favorable factors in the Applicant's case include: extreme hardship to the Applicant's lawful permanent resident mother, the hardship the Applicant's U.S. citizen daughter will experience if he is not granted a waiver, the Applicant's periods of gainful employment in the United States, and the Applicant's role as a supportive son. The unfavorable factors include the Applicant's misrepresentations to obtain a benefit under the Act, periods of unauthorized presence in the United States, and his conviction for theft in 2002.<sup>1</sup> We find that the favorable factors in the present case outweigh the adverse factors, such that a favorable exercise of discretion is warranted.

### 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 met that burden. Accordingly, we grant the Applicant's motion to reopen and sustain the appeal. Because we are granting the Applicant's motion to reopen, the motion to reconsider is moot and will not be addressed.

**ORDER:** The motion to reopen is granted and the appeal is sustained.

Cite as *Matter of C-A-M-P-*, ID# 122962 (AAO Oct. 4, 2016)

---

<sup>1</sup> The record shows that on [REDACTED] 2002, the Applicant was convicted of theft under California Penal Code section 484(A). The Applicant was placed on probation for 12 months as a result. Previous decisions have not addressed whether this conviction renders the Applicant inadmissible under section 212(a)(2)(A) of the Act for being convicted of a crime involving moral turpitude. Because establishing eligibility for a waiver under section 212(i) of the Act also satisfies the requirements for a waiver under section 212(h) for a crime involving moral turpitude, we need not address the Applicant's potential inadmissibility under section 212(a)(2)(A) on motion.