



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

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

MATTER OF O-M-E-

DATE: MAR. 30, 2017

APPEAL OF LOS ANGELES COUNTY, CALIFORNIA FIELD OFFICE DECISION

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

The Applicant, a native and citizen of the Democratic Republic of the Congo (DRC), seeks a waiver of inadmissibility for fraud or misrepresentation. *See* Immigration and Nationality Act (the Act) section 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 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 of the Los Angeles County, California Field Office denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (waiver application). The Director concluded that the Applicant was inadmissible for fraud or misrepresentation, specifically for procuring admission to the United States by presenting a passport and visa issued in the name of another person. The Director then determined that the Applicant had not established that denial of admission would result in extreme hardship to her U.S. citizen spouse, the only qualifying relative.

On appeal, the Applicant submits additional evidence and asserts that the Director erred by disregarding evidence and refusing to exercise discretion, and cites to new USCIS policy guidance about extreme hardship.

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

**I. LAW**

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 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 on appeal is whether the Applicant’s U.S. citizen spouse would suffer extreme hardship as a result of the Applicant’s waiver application being denied. The Applicant does not contest the finding of inadmissibility, which is supported by the record.<sup>1</sup> On appeal, the Applicant submits a brief, a declaration from her spouse, letters of support from family and friends, medical documents for her spouse and daughter, financial documents, school records and achievement certificates for her children, country information for the DRC, and photographs. The record of proceedings also contains previously-submitted affidavits, medical and financial documents, school records, country information, letters of support, certificates of appreciation for the Applicant, photographs, and civil documents. We have considered all the evidence in the record.

On appeal, the Applicant contends that recent USCIS policy guidance references particularly significant factors supporting a finding of extreme hardship, including a qualifying relative granted asylum from an applicant’s county of origin, U.S. Department of State travel warnings, and substantial displacement of childcare.<sup>2</sup> She states that her spouse was granted asylum from the

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<sup>1</sup> The record reflects that the Applicant entered the United States in 1998 with a passport and visitor visa issued in the name of another person.

<sup>2</sup> The Applicant cites to 9 USCIS Policy Manual B.5(E)(1), (4), and (5), <https://www.uscis.gov/policymanual>.

DRC, that the U.S. Department of State issues travel warnings for the country, and that she is the primary caretaker of their two children as her spouse is the breadwinner, working long hours and traveling extensively. The Applicant asserts that without her the children would suffer change as they rely on her for transportation. She also contends that her daughter suffers a pigmentation disorder and has migraines and digestive problems from food allergies, that the Applicant is responsible for monitoring her conditions and providing care, and that in her absence her spouse would be forced to assume the responsibilities, making it impossible for him to maintain his work hours and causing him psychological stress.

In her statements, the Applicant asserts that separation from her would destroy her spouse's physical and mental health and his economic situation. She states that her spouse felt abandoned as a child when living apart from his parents, so he does not want his children to be separated from their parents, and that as she is the primary caretaker of the children her spouse would need a nanny in her absence. The Applicant states that their daughter's medical conditions include vitiligo, which would be difficult for her spouse to help treat because it affects their daughter's genital area. The Applicant lists her spouse's debts and contends that he already financially supports other family members, and states that if she went to the DRC he would also support a second household and flights to visit her would be expensive.

The Applicant states that if they relocated to the DRC her spouse would worry about the safety of the children, their educational and extracurricular opportunities, and medical treatment for their daughter. She further contends that her spouse would be separated from his large family in the United States, lose his career, and go to the country where he suffered torture and from where he received asylum. The Applicant maintains that conditions in the DRC are still bad, including political repression, human rights violations, poverty, and a lack of sanitation.

In his statements the Applicant's spouse asserts that the Applicant is his life partner. He states that he suffers from psoriasis, which increases with stress and causes pain in his joints and impacts his blood pressure, and that being separated from the Applicant would cause emotional stress. The spouse states that their daughter suffers migraines and digestive problems, that the Applicant is responsible for monitoring her, and that he is unable to do so because of his working hours. He describes the children's activities and achievements and asserts that they would be adversely impacted by their mother's absence, which would create emotional pain for him. The spouse states that he earns a good living, but has incurred medical debt, bills, education loans, and compounding debt, and receives collection notices, and that if the Applicant were in the DRC he would also be supporting a second household.

The Applicant's spouse maintains that he has a close relationship with his extended family in the United States so he would suffer by relocating to the DRC. He states that since the death of his father he is the family patriarch and that because he is financially successful he sends money to his mother, siblings, and children of a deceased sister in the DRC, but that relocating would mean the loss of his career and he would no longer be able to support family members. The spouse further

asserts that he cannot be treated for psoriasis in the DRC, that the country is dangerous for children, particularly girls, and that education there cannot compare to the United States.

A 2015 psychological evaluation of the spouse diagnoses him with major depressive disorder, general anxiety disorder, and Posttraumatic Stress Disorder (PTSD) from his experiences in the DRC. The evaluation indicates that the spouse reports migraines, loss of sleep, difficulty concentrating, a loss of energy, depression, flashbacks, and nightmares, and recommends the spouse continue psychological treatment and be evaluated by a medical doctor to determine a need for psychotropic medication. The evaluation states that the spouse reports he would worry for the Applicant's safety if she were in the DRC, that he would incur childcare costs while also supporting the Applicant, and that he would need to adjust his work schedule to care for the children, which would hurt his professional aspirations and pay. The evaluation indicates that the spouse fears he will be unable to attend to the children's needs due to his feelings of hopelessness and depression, and that he worries about his children being separated from their mother because he experienced trauma being separated from his own parents. The evaluation further indicates that the spouse reports a fear for his own safety in the DRC, that the country is unsafe for his children, and that if the children moved there it would cause a dramatic change in their home, family, friends, health care, and education.

An August 2016 letter from the spouse's medical doctor states that the spouse has been a patient for 11 years and has an extremely severe case of psoriasis. The letter states that stress effects psoriasis, which can cause bleeding and extreme pain and effect daily activities, and that it can lead to depression, self-consciousness, and shame. The letter maintains that treatment is very costly, even with insurance. The Applicant also submitted general information about psoriasis and a study on psoriasis and its significance on stress.

The Applicant submitted financial documents including income tax returns, medical bills, loan payments, bank statements, and remittances by the spouse to relatives abroad. She also submitted estimates for childcare costs and flight costs to the DRC.

An August 2016 letter from the Applicant's daughter's physician states that she has been treated since 2012 for severe headaches and stomach pain with vomiting, joint pain, and numbness on one side of her face, and that she requires constant monitoring. Medical records show that the Applicant's daughter has been treated for vitiligo, which involves loss of skin color in the form of depigmented, or white, patches of skin on the body.

The Applicant submitted school records for her children and certificates noting their activities and achievements. Letters from the spouse's relatives note his importance as emotional support, guidance, and financial assistance to the family.

The Applicant submitted country information, including news accounts and reports on crime and violence in the DRC, and the 2015 U.S. Department of State Country Report on Human Rights

Practices that indicates human rights violations and societal discrimination and abuse against women and children.

The totality of the evidence reflects that the Applicant's spouse would suffer extreme hardship if the Applicant is unable to reside in the United States. The Applicant is the full-time caregiver for their children while her spouse is the family's financial provider and in the Applicant's absence he would struggle to provide proper care for the children, notably their daughter, while meeting his financial responsibilities. The Applicant's spouse suffers from psoriasis, which is worsened by stress, and would suffer psychological hardship being separated from the Applicant. Additionally, in December 2016 the U.S. Department of State issued a travel warning for the DRC, from where the spouse was granted asylum, and the Department of State further indicates that medical facilities in the DRC are severely limited and medicines in short supply.

The record also establishes that the Applicant's children are natives and citizens of the United States integrated into the lifestyle and educational system, and to uproot them from their education and social development to relocate them would constitute extreme hardship to them, and by extension, to the Applicant's spouse. Alternatively, were they to remain in the United States, the Applicant's spouse would experience hardship due to long-term separation from his children.

Additionally, the evidence shows that the Applicant warrants a waiver of inadmissibility as a matter of discretion. *See Matter of Mendez-Morales*, 21 I&N Dec. 296, 299 (BIA 1996).

### III. CONCLUSION

The Applicant has demonstrated that her spouse would experience extreme hardship if she is unable to reside in the United States and that she warrants a favorable exercise of discretion.

**ORDER:** The appeal is sustained.

Cite as *Matter of O-M-E-*, ID# 292745 (AAO Mar. 30, 2017)