



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

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DATE: **DEC 08 2012**

Office: NEW YORK FILE: [REDACTED]

IN RE: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(a)(9)(B)(v) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B)(v)

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, New York, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Israel who was found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for one year or more and seeking readmission within 10 years of her last departure from the United States. The applicant seeks a waiver of inadmissibility pursuant to section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v), in order to reside in the United States with her U.S. citizen spouse.

On July 19, 2010, the Field Office Director concluded that the applicant did not establish extreme hardship to her qualifying relative and denied the application accordingly.

On appeal, counsel for the applicant does not contest the applicant's inadmissibility but states that the evidence demonstrates that the applicant's qualifying relative would suffer extreme hardship if the applicant is not admitted as a lawful permanent resident.¹

In support of the waiver application, the record includes, but is not limited to legal arguments by counsel for the applicant, biographical information for the applicant and his spouse, biographical information for the applicant and her spouse's children, psychological reports concerning the applicant's spouse, documentation of the applicant's spouse's property ownership, financial documentation for the applicant's spouse, and documentation concerning the applicant's immigration history.

On August 10, 2012, the AAO sent Notice of its Intent to Dismiss the applicant's appeal. The applicant was granted thirty (30) days from the date of the notice to respond. Counsel for the applicant submitted a "Notice of Intent to Withdraw Application," which was received by USCIS on September 13, 2012. The Notice of Intent to Withdraw Application did not address the issues contained in the Notice of Intent to Dismiss, but rather simply stated that "Petitioner hereby withdraws her right and intent to appeal from the Notice of Intent to Dismiss Petitioner's previously filed I-485 application." Counsel then stated "Petitioner has already filed a new I-485 application which contains all evidence needed for the application to be granted." On October 2, 2012, the AAO notified the applicant's attorney that the AAO does not have appellate jurisdiction over an appeal from the denial of an application for adjustment of status (Form I-485). The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in her through the Homeland Security Act of 2002, Pub. L. 107-296. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003), with one exception -

¹ The AAO notes the applicant's change in counsel after submission of the appeal. The AAO received a new Form G-28 indicating the applicant's intent for [REDACTED] to assume the role of counsel in her case as of August 16, 2012.

petitions for approval of schools and the appeals of denials of such petitions are now the responsibility of Immigration and Customs Enforcement.

The Form I-290B before the AAO in the applicant's case, refers to her Form I-601, Application for a Waiver of Grounds of Inadmissibility. As such, we notified the applicant's attorney that without further clarification, we could not recognize the "Notice of Intent to Withdraw Application" which references withdrawal of Form I-485. The applicant's attorney was afforded 15 calendar days to respond. No response was received by the AAO as of the date of this decision. As stated in 8 C.F.R. § 103.3(a)(2)(vii), the affected party may withdraw the appeal, in writing, before a decision is made. As the applicant did not withdraw the Form I-290B for her Form I-601, the AAO will proceed with issuing its decision.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The entire record was reviewed and considered in rendering a decision on the appeal.

Section 212(a)(9) of the Act provides, in pertinent part, that:

(B) ALIENS UNLAWFULLY PRESENT.-

(i) In general.- Any alien (other than an alien lawfully admitted for permanent residence) who-

(I) was unlawfully present in the United States for a period of more than 180 days but less than 1 year, voluntarily departed the United States (whether or not pursuant to section 244(e) prior to the commencement of proceedings under section 235(b)(1) or section 240), and again seeks admission within 3 years of the date of such alien's departure or removal, or

(II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States, is inadmissible.

The Field Office Director determined that the applicant was inadmissible to the United States based on the unlawful presence that she accrued in the United States after her admission on a B2 nonimmigrant visa on June 13, 2000. The applicant was granted permission to remain in the United States until December 12, 2000, but remained in the United States, was married on December 5, 2000, and has resided in the United States since that time. The applicant obtained advance parole pursuant to section 212(d)(5)(A) of the Act on July 15, 2004 in connection with the application for adjustment of status that she filed on December 11, 2003.² She departed the

² The applicant's initial application for adjustment of status was denied on May 9, 2006, as was her application for a waiver of inadmissibility Form I-601. The applicant appealed the denial of her Form I-601 to the AAO and the AAO

United States on multiple occasions pursuant to advance parole between July 15, 2004 and September 3, 2008. Prior to the applicant's filing for adjustment of status on December 11, 2003, the applicant accrued one year or more of unlawful presence in the United States. The Field Office Director concluded that the applicant became subject to the ground of inadmissibility at section 212(a)(9)(B)(i)(II) of the Act when the applicant departed the United States pursuant to advance parole.

In *Matter of Arrabally and Yerrabelly*, 25 I&N Dec. 771 (BIA 2012), the Board of Immigration Appeals (BIA) held that an alien who leaves the United States temporarily pursuant to advance parole under section 212(d)(5)(A) of the Act does not make a departure from the United States within the meaning of section 212(a)(9)(B)(i)(II) of the Act. Here, the applicant obtained advance parole under section 212(d)(5)(A) of the Act, temporarily left the United States pursuant to that grant of advance parole, and was paroled into the United States pursuant to that parole. In accordance with the BIA's decision in *Matter of Arrabally*, the applicant did not make a departure from the United States for the purposes of section 212(a)(9)(B)(i)(II) of the Act between December 11, 2003 and September 3, 2008. 25 I&N Dec. 771 at 779. Accordingly, the applicant is not inadmissible under section 212(a)(9)(B)(i)(II) of the Act based on her departures and reentries in to the United States after September 1, 2004 pursuant to advance parole.

We find, however, that the applicant remains inadmissible under 212(a)(9)(B)(i) of the Act due to unlawful presence prior to obtaining advance parole. After being denied admission to the United States on August 17, 1995, using the name [REDACTED], the applicant returned to Israel and on September 18, 1995, obtained a B2 nonimmigrant visitor visa using a different name, [REDACTED]. The applicant then entered and departed the United States on numerous occasions as a nonimmigrant visitor. The unlawful presence provisions of the Act went into effect on April 1, 1997. After that date, the record reflects that the applicant was admitted to the United States as a nonimmigrant visitor on July 2, 1998 with permission to remain until July 8, 1998. A stamp in the applicant's passport indicates that she exited the Taba Border Control, in Israel, on July 8, 1998, but the record does not show that there is an admission stamp to the United States in her passport until her June 13, 2000 admission. The AAO notes; however, that the applicant's son was born at New York Methodist Hospital on June 30, 1999. The record indicates that the applicant was present in the United States after she exited Israel on July 8, 1998 and before her admission on June 13, 2000. Additionally, the applicant reported on her Form G-325A, signed on January 13, 2003, that she resided at 306 Avenue 0, Brooklyn, NY, from an undisclosed date in 1996 through September 1999 and then resided at 2222 Bay Avenue, Brooklyn, NY from September 1999 through the time that the Form G-325A was signed in 2003. The AAO has determined that the applicant is not inadmissible under section 212(a)(9)(B)(i)(II) of the Act based on her departures from the United States pursuant to advance parole after December 11, 2003, but we find that she is inadmissible under section 212(a)(9)(B)(i) of the Act due to unlawful presence accrued between

dismissed that appeal on May 21, 2008. Meanwhile, the applicant had filed a new application for adjustment of status on January 16, 2007 and that application was denied on October 9, 2009. The applicant filed her last application for adjustment of status on November 20, 2009. That application was denied on July 19, 2010 and the applicant filed a Form I-290B Motion to Reopen or Reconsider with the District Director on August 18, 2010.

July 8, 1998 and June 13, 2000. As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. §1361.

We also find that that applicant is inadmissible under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), which provides, in pertinent part, that:

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.

As mentioned above, the record illustrates that the applicant, then using the name [REDACTED] was refused admission to the United States on August 17, 1995, due to a determination that she had overstayed prior admissions and worked without authorization in the United States. The applicant was allowed to withdraw her application for admission and return to Israel. The applicant then returned to Israel and applied for and obtained a visitor visa to the United States using a new Israeli passport in the name of [REDACTED]. The applicant's new Israeli passport was issued on August 31, 1995, even though her old passport using the name [REDACTED] did not expire until July 21, 1998. The record indicates that the applicant obtained a new Israeli passport using a new name in order to conceal her prior immigration history in the United States when seeking to obtain a visitor visa.

The BIA held that the term "fraud" in the Act "is used in the commonly accepted legal sense that is, as consisting of false representations of a material fact made with knowledge of its falsity and with intent to deceive the other party." *Matter of G-G*, 7 I&N Dec. 161, 164 (BIA 1956). A misrepresentation is generally material only if by making it the alien received a benefit for which she would not otherwise have been eligible. *See Kungys v. United States*, 485 U.S. 759 (1988); *see also Matter of Tijam*, 22 I&N Dec. 408 (BIA 1998); *Matter of Martinez-Lopez*, 10 I&N Dec. 409 (BIA 1962; AG 1964). A misrepresentation or concealment must be shown by clear, unequivocal, and convincing evidence to be predictably capable of affecting, which is, having a natural tendency to affect, the official decision in order to be considered material. *Kungys* at 771-72. The BIA has held that a misrepresentation made in connection with an application for visa or other documents, or for entry into the United States, is material if either:

1. the alien is excludable on the true facts, or
2. the misrepresentation tends to shut off a line of inquiry which is relevant to the alien's eligibility and which might well have resulted in proper determination that he be excluded.

Matter of S- and B-C-, 9 I&N Dec. 436, 448-449 (BIA 1960; AG 1961).

To establish eligibility for admission to the United States as a nonimmigrant B1/B2 visa, section 101(a)(15) of the Act states, in pertinent part:

- (B) an alien...having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure.

In this case, the applicant's use of a new Israeli passport issued in a different name from the name used when the applicant was refused admission to the United States less than a month before, cut off a line of inquiry relevant to the applicant's eligibility for a visitor visa to the United States.

The applicant's prior immigration history to the United States under the name of [REDACTED] was relevant to her eligibility for a visitor visa under section 101(a)(15) of the Act, due to the determination that she had overstayed prior admissions and worked without authorization in the United States. Moreover, the record also suggests that that applicant obtained admission to the United States as a B2 nonimmigrant visitor on multiple occasions with immigrant intent. The evidence in the record indicates that the applicant did not maintain a residence outside of the United States when she was admitted at a nonimmigrant visitor to the United States on July 4, 1997, July 2, 1998, and again on June 13, 2000.

Section 212(i) of the Act provides that:

- (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [*Secretary*], waive the application of clause (i) of subsection (a)(6)(C) in the case of 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 to the satisfaction of the Attorney General [*Secretary*] 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 U.S. citizen or lawful permanent resident spouse or parent, the same standard as required under section 212(a)(9)(B)(v) of the Act. Hardship to the applicant or her children is not considered in section 212(a)(9)(B)(v) or 212(i) waiver proceedings unless it causes hardship to a qualifying relative, in this case the applicant's spouse. If extreme hardship to a qualifying relative is established, the applicant is statutorily eligible for a waiver, and USCIS then assesses whether a favorable exercise of discretion is warranted. *See Matter of Mendez-Morales*, 21 I&N Dec. 296, 301 (BIA 1996).

Extreme hardship is "not a definable term of fixed and inflexible content or meaning," but "necessarily depends upon the facts and circumstances peculiar to each case." *Matter of Hwang*, 10 I&N Dec. 448, 451 (BIA 1964). In *Matter of Cervantes-Gonzalez*, the Board provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship to a qualifying relative. 22 I&N Dec. 560, 565 (BIA 1999). The factors include the presence of a lawful permanent resident or United States citizen spouse or parent in this country; the qualifying relative's family ties outside the United States; the conditions in the country or countries to which the qualifying relative would relocate and the extent of the qualifying relative's ties in such countries; the financial impact of departure from this country; and significant conditions of health,

particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate. *Id.* The Board added that not all of the foregoing factors need be analyzed in any given case and emphasized that the list of factors was not exclusive. *Id.* at 566.

The Board has also held that the common or typical results of deportation, removal and inadmissibility do not constitute extreme hardship, and has listed certain individual hardship factors considered common rather than extreme. These factors include: economic disadvantage, loss of current employment, inability to maintain one's present standard of living, inability to pursue a chosen profession, separation from family members, severing community ties, cultural readjustment after living in the United States for many years, cultural adjustment of qualifying relatives who have never lived outside the United States, inferior economic and educational opportunities in the foreign country, or inferior medical facilities in the foreign country. *See generally Matter of Cervantes-Gonzalez*, 22 I&N Dec. at 568; *Matter of Pilch*, 21 I&N Dec. 627, 632-33 (BIA 1996); *Matter of Ige*, 20 I&N Dec. 880, 885 (BIA 1994); *Matter of Ngai*, 19 I&N Dec. 245, 246-47 (Comm'r 1984); *Matter of Kim*, 15 I&N Dec. 88, 89-90 (BIA 1974); *Matter of Shaughnessy*, 12 I&N Dec. 810, 813 (BIA 1968).

However, though hardships may not be extreme when considered abstractly or individually, the Board has made it clear that “[r]elevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists.” *Matter of O-I-O-*, 21 I&N Dec. 381, 383 (BIA 1996) (quoting *Matter of Ige*, 20 I&N Dec. at 882). The adjudicator “must consider the entire range of factors concerning hardship in their totality and determine whether the combination of hardships takes the case beyond those hardships ordinarily associated with deportation.” *Id.*

The actual hardship associated with an abstract hardship factor such as family separation, economic disadvantage, cultural readjustment, et cetera, differs in nature and severity depending on the unique circumstances of each case, as does the cumulative hardship a qualifying relative experiences as a result of aggregated individual hardships. *See, e.g., Matter of Bing Chih Kao and Mei Tsui Lin*, 23 I&N Dec. 45, 51 (BIA 2001) (distinguishing *Matter of Pilch* regarding hardship faced by qualifying relatives 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 they would relocate). For example, though family separation has been found to be a common result of inadmissibility or removal, separation from family living in the United States can also be the most important single hardship factor in considering hardship in the aggregate. *See Salcido-Salcido*, 138 F.3d at 1293 (quoting *Contreras-Buenfil v. INS*, 712 F.2d 401, 403 (9th Cir. 1983)); *but see Matter of Ngai*, 19 I&N Dec. at 247 (separation of spouse and children from applicant not extreme hardship due to conflicting evidence in the record and because applicant and spouse had been voluntarily separated from one another for 28 years). Therefore, we consider the totality of the circumstances in determining whether denial of admission would result in extreme hardship to a qualifying relative.

On appeal, counsel for the applicant states that the applicant's spouse would suffer emotional and financial hardship if he were to be separated from the applicant. In support of this statement, the record contains four psychological assessments by three different psychologists over the course of

four years, diagnosing the applicant's spouse with Major Depressive Disorder. Psychologist [REDACTED] who assessed the applicant's spouse on March 25, 2010, stated that separation from the applicant would exacerbate the applicant's spouse's depression and "he could very easily end up needing psychiatric hospitalization." [REDACTED] stated that the applicant's spouse reported to him that due to the stress of the potential of being separated from the applicant, he has had insomnia, weight loss of over 25 pounds, and severe headaches, in addition to anxiety that has affected his ability to concentrate and perform his professional duties -- the same symptoms reported in the previous three assessments. There no indication in the record that the applicant's spouse has sought medical assistance for his symptoms or that he has pursued psychotherapy after the recommendations in the three previously conducted psychological assessments. [REDACTED] also states that the applicant's spouse's "supervisors" have informed him that "unless he can be more attentive to his job, they may fire him." There is no indication in the record; however, that the applicant has not been able to perform his professional duties or is at risk of losing business. In fact, the applicant's spouse states that he is self-employed, so it is not clear who he is referring to as his supervisors. [REDACTED] also reports that the applicant's spouse states that he "spends a great deal of time at home just staring at the walls." This statement, however, contradicts the applicant's spouse's own statement that he spends weekends and holidays with his mother and siblings and that he and the applicant "attend religious functions and ceremonies together and constantly look for ways to give back to the community." The AAO respects the opinion of the mental health professionals who have evaluated the applicant's spouse; however, there is not support in the record for the proposition that the applicant's spouse faces hospitalization if he were to be separated from the applicant.

In the applicant's spouse's statement, he also refers to the hardship that his children would suffer as a result of the applicant's inadmissibility. As noted above, Congress did not include hardship to an alien's children as a factor to be considered in assessing extreme hardship under section 212(a)(9)(B)(v) or 212(i) of the Act. Hardship to the applicant's spouse's mother is also not relevant under the Act. In the present case, the applicant's spouse is the only qualifying relative for the waiver, and hardship to the applicant's children or mother will not be separately considered, except as it is shown to affect the applicant's spouse. The record indicates that the applicant's spouse has extensive family ties in the United States but he has not explained why he cannot rely on his siblings and mother for assistance in the absence of his spouse.

The applicant's spouse also states that he would suffer financial hardship if he were to be separated from the applicant. In particular, he states that his business would suffer financially because he would have to hire an accountant to perform the work that his wife presently completes. There is no supporting documentation in the record to illustrate the work that the applicant performs for her husband's business. Additionally, no financial documentation has been submitted to illustrate how much the applicant's services are worth and how the business would suffer financially in the applicant's absence. Although the applicant's assertions are relevant and have been taken into consideration, little weight can be afforded them in the absence of supporting evidence. *See Matter of Kwan*, 14 I&N Dec. 175 (BIA 1972) ("Information in an affidavit should not be disregarded simply because it appears to be hearsay; in administrative proceedings, that fact merely affects the weight to be afforded it."). 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. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Similarly, without supporting evidence, the assertions of counsel will not satisfy the applicant's burden of proof. The unsupported assertions of counsel do not constitute evidence. See *Matter of Obaighena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Additionally, the applicant's spouse states that he would have to sell the family home, if his wife had to depart the United States because she is the owner of the home. The applicant's spouse; however does not provide an explanation for why the home would need to be sold, what hardship that would cause him, and why he would be unable to afford housing for himself if the applicant were no longer residing in the United States. Although the AAO notes the applicant's spouse's difficult situation and recognizes that the applicant's spouse would endure hardship as a result of long-term separation from the applicant, the record does not establish that the hardships he would face, considered in the aggregate, rise to the level of "extreme."

Counsel for the applicant states that the applicant's spouse would suffer from emotional and financial hardship, as well as a break in family ties, should he relocate to Israel to reside with the applicant. Counsel also states that the applicant's spouse would face risks to his safety were he to relocate, and that he and his children would face hardship as they do not speak Hebrew fluently. There is no documentation in the record to support counsel's assertions that the applicant's spouse would be unable to find employment in Israel. As stated above, without supporting evidence, the assertions of counsel will not satisfy the applicant's burden of proof. The unsupported assertions of counsel do not constitute evidence. See *Matter of Obaighena*, 19 I&N Dec. at 534 n.2; *Matter of Laureano*, 19 I&N Dec. at 3 n.2; and *Matter of Ramirez-Sanchez*, 17 I&N Dec. at 506. Although the applicant has not submitted documentation to support the claims of hardship that her spouse would suffer in Israel, the AAO takes note of the August 10, 2012 Travel Warning for Israel, the West Bank, and Gaza issued by the U.S. Department of State. The Travel Warning cautions against travel to the Gaza strip, and advises vigilance in other areas of Israel, however, it is not clear from the record why the applicant's spouse would not be able to follow the precautions advised in the Travel Warning. The applicant's spouse, who is also a native of Israel, but has extensive family ties in the United States, does not state why he would be unable to maintain ties with his family in the United States if he were to relocate to Israel to reside with his spouse. The record indicates that the applicant's spouse has previously traveled frequently between the United States and Israel. Based on the information provided, considered in the aggregate, the evidence does not illustrate that the hardship suffered in this case, should the applicant's spouse relocate to Israel, would be beyond what is normally experienced by families dealing with removal or inadmissibility. *Matter of O-J-O-*, 21 I&N Dec. at 383.

Although the applicant's spouse's concern over the applicant's immigration status is neither doubted nor minimized, the fact remains that Congress provided for a waiver of inadmissibility only under limited circumstances. In nearly every qualifying relationship, whether between husband and wife or parent and child, there is a deep level of affection and a certain amount of emotional and social interdependence. While, in common parlance, the prospect of separation or involuntary relocation nearly always results in considerable hardship to individuals and families, in specifically limiting the availability of a waiver of inadmissibility to cases of "extreme

hardship,” Congress did not intend that a waiver be granted in every case where a qualifying relationship, and thus the familial and emotional bonds, exist. The point made in this and prior decisions on this matter is that the current state of the law, viewed from a legislative, administrative, or judicial point of view, requires that the hardship, which meets the standard in sections 212(a)(9)(B)(v) and 212(i) of the Act, be above and beyond the normal, expected hardship involved in such cases.

Considered in the aggregate, the hardship to the applicant’s spouse does not rise to the level of extreme beyond the common results of removal. *See Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991); *Perez*, 96 F.3d at 392 (defining “extreme hardship” as hardship that was unusual or beyond that which would normally be expected upon deportation); *Matter of Pilch*, 21 I&N Dec. at 631. The AAO therefore finds that the applicant has failed to establish extreme hardship to a qualifying relative as required under sections 212(a)(9)(B)(v) and 212(i) of the Act. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether she merits a waiver as a matter of discretion.

In proceedings for an application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of proving eligibility remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.