



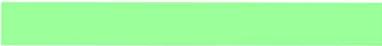
U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **JUL 17 2014** Office: NEBRASKA SERVICE CENTER

FILE: 

IN RE: 

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:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Director, Nebraska Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of the Dominican Republic who was found 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 more than one year and seeking admission within ten years of her last departure from the United States. The applicant's mother is a legal permanent resident. The applicant seeks a waiver of inadmissibility in order to reside in the United States with her mother.

The Director found that the applicant failed to establish that her qualifying relative would experience extreme hardship as a consequence of her inadmissibility and denied the Form I-601, Application for Waiver of Grounds of Inadmissibility, accordingly. *See Decision of the Director*, dated October 29, 2013.

On appeal, the applicant's qualifying parent asserts that she is suffering health, emotional and financial hardships as a result of her separation from her daughter. *See Form I-290B, Notice of Appeal or Motion*, dated November 26, 2013 (Form I-290B).

The record includes, but is not limited to, identification documents for the applicant, qualifying parent and the applicant's grandmother; letters from the qualifying parent, the applicant's sister, other family members, and the applicant's former school; copies of prescriptions for the qualifying parent; and copies of remittances sent to the applicant in the Dominican Republic. 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:

(B) Aliens Unlawfully Present.-

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

....

(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.

Section 212(a)(9)(B)(v) of the Act provides for a waiver of section 212(a)(9)(B)(i) inadmissibility as follows:

The Attorney General [now Secretary of Homeland Security] has sole discretion to waive clause (i) in the case of an immigrant who is the spouse or 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 to such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien.

A waiver of inadmissibility under section 212(a)(9)(B)(v) of the Act is dependent on a showing that the bar to admission imposes extreme hardship on a qualifying relative, which includes the U.S. citizen or lawfully resident spouse or parent of the applicant. The applicant's mother is the only qualifying relative in this case. If extreme hardship to a qualifying relative is established, the applicant is statutorily eligible for a waiver, and U.S. Citizenship and Immigration Services 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 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, 883 (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-J-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.

The applicant entered the United States without inspection or admission in 2002 and returned to the Dominican Republic on March 31, 2012. She therefore accrued over one year of unlawful presence between May 17, 2007, when she turned eighteen years old, and her departure on March 31, 2012. She is inadmissible to the United States under section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year and seeking admission within ten years of her departure from the United States. The applicant does not contest her inadmissibility.

Regarding the hardship that the applicant’s lawful permanent resident mother were to experience if she remains in the United States while the applicant resides in the Dominican Republic, the applicant’s mother states that she is suffering health, emotional and financial hardships. She states that she takes medicine for her “health condition” and submits copies of prescriptions, dated August 2013, for Ambien and Naprosyn. Another copy of a prescription form indicates the word “mammo.” The applicant submits no other evidence to explain her mother’s health conditions. These prescriptions refer only to the names of medications without reflecting the specific conditions they are intended to alleviate. Absent an explanation in plain language from a treating physician of the exact nature and severity of any condition and a description of any treatment or family assistance needed, we are not in the position to reach conclusions concerning the severity of a medical condition or the treatment needed.

In addition, the applicant’s mother indicates that she is suffering emotionally, specifically from depression, stress, anxiety, difficulty in concentration and sleeplessness. She indicates that her “agony cannot be described in words” and that it is “surreal.” She also states that she worries about the applicant being alone and for her safety in the Dominican Republic. The applicant’s sister also indicates that their mother is suffering from depression. Although it is understandable

that the qualifying parent is experiencing emotional hardship related to her separation from the applicant, the record does not sufficiently demonstrate and detail the extent of her emotional hardships.

In addition, the applicant's mother indicates that she is also financially struggling to support the applicant and her other daughter. On appeal, the applicant's mother provides copies of remittances that she sent to the Dominican Republic to the applicant and another individual with the applicant's address, between July 2013 and October 2013, in amounts ranging between 100 dollars and 395 dollars, to demonstrate that she is supporting the applicant. While the remittances show that the applicant's mother has financially assisted the applicant, without evidence of the applicant's mother's other financial responsibilities and assets to provide context, it is unclear whether doing so is a hardship for her. The record does not contain objective documentation regarding her income in the United States, her other financial responsibilities and expenses or evidence indicating the specific extent to which the applicant contributed financially to her family prior to departure. While the assertions of the qualifying parent are relevant evidence and have been considered, 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)). As such, the evidence of the qualifying parent's hardship upon separation, considered in the aggregate, including her health, emotional and financial hardships, does not establish that she is experiencing extreme hardship due to her separation from the applicant.

The applicant's mother, a native of the Dominican Republic, indicates in her letter that she cannot move to the Dominican Republic because she is a permanent resident and must work hard in the United States to provide for her family. The applicant does not support evidence to corroborate claims that her mother financially supports her family in the United States. The record shows that the applicant's parent has family ties to the United States, specifically her younger daughter, her grand-daughter, mother and sister. However, the record does not include supporting documentation about country conditions in the Dominican Republic that may affect the ability of the applicant and her mother to financially support themselves. As stated above, the assertions of the qualifying parent without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici* at 165. We acknowledge that the qualifying parent's potential loss of status in the United States represents a hardship; however, the applicant has not provided sufficient evidence to show that her qualifying parent's cumulative hardships upon relocation would be extreme.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.