



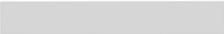
U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **JUN 05 2015**

FILE #: 

APPLICATION RECEIPT #: 

IN RE: 

APPLICATION: Application for Waiver of Grounds of Inadmissibility pursuant to 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:

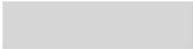
Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

  
for

Ron Rosenberg  
Chief, Administrative Appeals Office



**DISCUSSION:** The Director, Nebraska Service Center, denied the application for a waiver of inadmissibility. 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 El Salvador 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 departure from the United States. The applicant is the beneficiary of an approved Petition for Alien Relative (Form I-130) filed on her behalf by her U.S. citizen father. The applicant seeks a waiver of inadmissibility under 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 father and U.S. lawful permanent resident mother.

In a decision dated July 15, 2014, the Director concluded that the applicant did not establish extreme hardship to a qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601), accordingly.

On appeal, the applicant submits additional evidence and states that her father, as well as her U.S. citizen daughter, will suffer extreme hardship if she is not granted a waiver of inadmissibility.

In support of the waiver application, the record includes, but is not limited to: biographical information for the applicant and her daughter, a letter from the applicant's mother, letters from the applicant's father, and documentation of the applicant's immigration history. The entire record was reviewed and considered in rendering a decision on the appeal.

The AAO conducts appellate review on a de novo basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

The applicant was found to be inadmissible under section 212(a)(9)(B)(i)(II) of the Act.

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-

...

(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.

...

(v) Waiver.-The Attorney General 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 to the satisfaction of the Attorney General 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. No court shall have jurisdiction to review a decision or action by the Attorney General regarding a waiver under this clause.

The record indicates that the applicant entered the United States without inspection in about July 2005 and remained in the United States unlawfully through July 14, 2013. She therefore was unlawfully present in the United States for one year or more and is inadmissible for a period of 10 years from the date of her departure. She does not contest the finding of inadmissibility under section 212(a)(9)(B)(i)(II) of the Act.

The applicant is eligible to apply for a waiver of inadmissibility pursuant to section 212(a)(9)(B)(v) of the Act, as the daughter of a U.S. citizen and the daughter of a U.S. lawful permanent resident. The applicant's U.S. citizen daughter is not a qualifying relative under the Act. In order to qualify for this waiver, she must first prove that the refusal of her admission to the United States would result in extreme hardship to her qualifying relatives. Hardship to the applicant or the applicant's daughter will not be separately considered, except as it is shown to affect the applicant's parents. 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-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 1292, 1293 (9th Cir. 1998) (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.

As the applicant has not submitted any documentation concerning hardship to her U.S. lawful permanent resident mother, and the applicant’s U.S. citizen daughter is not a qualifying relative under the Act, we will turn to the documentation on record concerning the hardship to the applicant’s U.S. citizen father.

On appeal, the applicant states that her father will suffer extreme hardship as a result of her inadmissibility because his family is separated. The applicant states that her father came to the United States in the late 1980s as a result of violence in El Salvador, supported her family from afar, and now suffers because his family remains separated. The applicant’s father confirms this in his letters on record. The applicant’s father also states that he fears for his daughter’s safety in El Salvador because of gang extortions and kidnappings in that country. He also states that he is now retired and his pension does not provide him sufficient income to send money to his children in El Salvador. The record indicates that the applicant is one of nine siblings, and the applicant’s mother’s letter states she and the applicant’s youngest sibling obtained lawful permanent resident status in the United States in 2011. There is no documentation in the record confirming the

present location or residence of the applicant's mother or other siblings. The most recent documentation in the record concerning the applicant's father's income is a partially illegible copy of a 2013 tax return, indicating his income to be around \$25,000. A medical bill for the applicant's father dated April 7, 2014, indicates that the applicant's father was discharged from the [REDACTED], California on November 24, 2013 for an undisclosed condition. There is no other documentation in the record concerning the applicant's father's medical condition or financial situation. Although the applicant's father'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)).

The applicant's father's statement says that he needs his family close to him and is suffering hardship as a result. The record, however, indicates that the applicant's father resides in California and the applicant resided in Indiana when she was previously in the United States. There is no documentation in the record concerning how frequently the applicant and her father were in contact when she resided in the United States or concerning what role she would play in his life if she were granted a waiver of inadmissibility and returned to the United States. There is also no documentation in the record to indicate what contact, if any, the applicant's father has with the applicant's daughter, who the applicant states resides in the United States. As a result, it is not possible to determine the degree of hardship suffered by the applicant's father as a result of separation from the applicant. We recognize the impact of separation on families, but the evidence in the record, when considered in the aggregate, does not indicate that the hardship in this case is extreme. *See Matter of O-J-O-*, 21 I&N Dec. at 383.

The applicant has also not demonstrated that her father would experience extreme hardship if he relocated to El Salvador to be reunited with her. The applicant's father states that he departed El Salvador as a result of violence in that country and still fears for his family's safety in that country. Other than his statement and the medical bill on record, there is no evidence concerning what hardship the applicant's father would experience were he to relocate to El Salvador. The record does not establish that the applicant's father has a medical condition that cannot be treated in El Salvador or that he would face harm in that country other than a general risk of violent crime experienced by other individuals there. Although the applicant's father indicates that he was employed in the United States for many years and supported his family through that employment, he now states that he is retired and receives a pension. The applicant's father is a native of El Salvador, speaks Spanish, and has family ties to that country. 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 father relocate to El Salvador, would be beyond what is normally experienced by families dealing with removal or inadmissibility. *See Matter of O-J-O-*, 21 I&N Dec. at 383.



In this case, the record does not contain sufficient evidence to show that the hardships faced by the qualifying relative, considered in the aggregate, rise beyond the common results of removal or inadmissibility to the level of extreme hardship. The applicant has failed to establish extreme hardship to a qualifying relative as required under section 212(a)(9)(B)(v) of the Act. As the applicant has not established extreme hardship to a qualifying family member, no purpose would be served in determining whether she merits a waiver as a matter of discretion.

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