



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

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

MATTER OF A-K-F-G-

DATE: FEB. 15, 2018

APPEAL OF RENO, NEVADA FIELD OFFICE DECISION

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

The Applicant, a native and citizen of Peru currently residing in the United States, has applied to adjust status to that of a lawful permanent resident. A foreign national seeking to be admitted to the United States as an immigrant or to adjust status must be "admissible" or receive a waiver of inadmissibility. The Applicant has been found inadmissible for fraud/misrepresentation and seeks a waiver of that inadmissibility. Immigration and Nationality Act (the Act) section 212(i), 8 U.S.C. § 1182(i). 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 Reno, Nevada Field Office denied the application, concluding that the Applicant did not establish, as required, extreme hardship to a qualifying relative if he is denied admission.

On appeal, the Applicant submits additional evidence and asserts that he has established the requisite extreme hardship.

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

I. LAW

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, is inadmissible. Section 212(a)(6)(C)(i) of the Act. There is 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. If the foreign national demonstrates the existence of the required hardship, then he or she must also show that USCIS should favorably exercise its discretion and grant the waiver. Section 212(i) of the Act.

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 issues on appeal are whether the Applicant has established the requisite extreme hardship to a qualifying relative if he were denied admission and, if so, whether he merits a favorable exercise of discretion. The Applicant does not contest his inadmissibility on appeal, a finding supported by the record.¹ Therefore, he is inadmissible for fraud/misrepresentation under section 212(a)(6)(C)(i) of the Act and is eligible to apply for a waiver of this inadmissibility under section 212(i) of the Act.

To qualify for a waiver of inadmissibility, the Applicant must demonstrate that denying him admission would result in extreme hardship to his lawful permanent resident wife, the only qualifying relative in this case. The Applicant’s spouse describes growing up in Peru with her parents and three siblings as a beautiful childhood until her father left the country to work in the United States. She explains that this separation was very painful and that, as a result, she “sometimes [tried] to cut [her] arm.” She states she met the Applicant after she graduated from high school in May 2012 and they have been together ever since, except for one month when she visited her father in the United States. According to the Applicant’s spouse, Peru is not safe and she does not want to raise their two young children there. She contends the Applicant was robbed by two armed men in [REDACTED] 2013. In addition, she maintains that after giving birth to their first child in the United States, they returned to Peru in [REDACTED] 2015 and lived at the Applicant’s parents’ house which was robbed twice during the subsequent months. She asserts that she and the Applicant decided to return to the United States in December 2015 to raise their family. She states she no longer works and the Applicant is her only support.

¹ The record shows that the Applicant indicated on his nonimmigrant visa application and told an immigration officer that he wanted to visit the United States for 7 days in August 2014 to attend a workshop when, in fact, he entered the country in order to get married and reside in the United States.

Although we are sympathetic to the family's circumstances, we find that there is insufficient evidence to show that the hardship faced by the Applicant's spouse if she returns to Peru with the Applicant rises to the level of extreme hardship. The record shows that the Applicant's spouse is currently 23 years old, has spent the majority of her life in Peru, and continues to have family there. Although the record includes copies of police reports describing incidents in which the Applicant had been victimized in 2010 and 2013, notably, there are no similar reports corroborating the Applicant's spouse's contentions that the house in which they were living in Peru was robbed twice in 2015. In addition, according to two different Forms G-325A, Biographic Information Forms, the Applicant's spouse was not living in Peru in 2015, but rather, lived in [REDACTED] Arizona, from August 2013 until at least February 2016. Moreover, according to a psychological evaluation in the record, the Applicant's spouse relocated to [REDACTED] California, by herself in 2013; however, she makes no indication of ever having lived in California and claims she has never been separated from the Applicant except for the one month she was visiting her father.

We further take administrative notice that the most recent Travel Advisory for Peru by the U.S. Department of State indicates that individuals should exercise normal precautions. Although the Travel Advisory lists some areas of increased risk, these areas do not include [REDACTED] where the Applicant's parents reside, or [REDACTED] where the Applicant's mother lives. Regarding the Applicant's spouse's mental health, the psychological evaluation shows she has been diagnosed with generalized anxiety disorder and persistent depressive disorder. Nonetheless, there is no evidence her mental health issues cannot be adequately monitored and treated in Peru. Although the evaluation indicates that the Applicant's spouse reported "some self-destructive behaviors such as cutting her arms" during adolescence, it specifies that she "has not done it since her husband is in her life." There are no additional details regarding her past history of hurting or cutting herself. There are also no other documents addressing her mental health problems, such as medical records, copies of any prescriptions medications, or any letters from the Applicant, friends, or family describing the extent of her mental health issues or how they affect her daily life, if at all.

We recognize that remaining in the United States without the Applicant would be stressful and likely entail finding employment and raising two young children as a single mother. However, the record does not contain any credible evidence that the Applicant's spouse, who claims she has never been separated from the Applicant except for one month, intends to remain in the country without him if the waiver application were denied and would experience extreme hardship as a result.

We find that the evidence, considered in its totality, is insufficient to show the requisite extreme hardship. As the Applicant has not demonstrated the resulting extreme hardship to a qualifying relative or qualifying relatives upon denial of his waiver application, we need not consider whether he merits a waiver in the exercise of discretion. Accordingly, the Applicant's waiver application remains denied.

ORDER: The appeal is dismissed.