

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

[REDACTED]

DATE: DEC. 20, 2016

FILE #: [REDACTED]

APPLICATION RECEIPT #: [REDACTED]

I-290B RECEIPT #: [REDACTED]

IN RE: [REDACTED]

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

ON BEHALF OF APPLICANT:

DEREK DEAKE LIM, ESQUIRE  
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Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case. All documents have been returned to the office that originally decided your case. Please direct any further inquiries to that office.

Thank you,

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

Ron Rosenberg  
Chief, Administrative Appeals Office



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

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

MATTER OF ██████████

DATE: DEC. 20, 2016

APPEAL OF SAN JOSE FIELD OFFICE DECISION

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

The Applicant seeks a waiver of the ground of inadmissibility for crimes involving moral turpitude. See Immigration and Nationality Act (the Act) section 212(h), 8 U.S.C. § 1182(h). A foreign national seeking to be admitted to the United States as an immigrant or to adjust status to lawful permanent residence 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 San Jose Field Office Director, Santa Clara, California, denied the application. The Director concluded that the Applicant was inadmissible for two crimes involving moral turpitude (retail theft) and had not demonstrated extreme hardship to her spouse if she is refused admission.

The matter is now before us on appeal. In the appeal, the Applicant argues that when the evidence of hardship is considered in the aggregate, it establishes that her spouse will suffer extreme psychological and financial hardship if she is refused admission. She resubmits previously submitted evidence.

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

**I. LAW**

Section 212(a)(2)(A) of the Act, 8 U.S.C. § 1182(a)(2)(A), provides that any foreign national convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime is inadmissible.

Individuals found inadmissible under section 212(a)(2)(A) of the Act may seek a waiver of inadmissibility under section 212(h) of the Act. Section 212(h) of the Act provides for a discretionary waiver if denial of admission would result in extreme hardship to a United States citizen or lawful permanent resident spouse, parent, son, or daughter.

Matter of ██████████

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 Applicant does not contest her inadmissibility for a crime involving moral turpitude, a finding supported by the record. The issue on appeal is whether she has demonstrated extreme hardship to her spouse if he remains in the United States without her or accompanies her abroad.

With the waiver application the Applicant submitted affidavits from herself and her spouse and brother, her criminal records, family photographs, a letter from a specialist in psychiatry, psychological evaluation reports on the Applicant and her spouse, clinical psychological consultation notes, documentation on ██████████ an employment contract, her spouse’s computer certificates, a deed, financial documents, and copies of immigration and civil documents. On appeal, she resubmits previously submitted evidence. The entire record was reviewed and considered in rendering a decision on the appeal.

The totality of the evidence demonstrates that the Applicant’s spouse would experience extreme hardship if admission is denied. 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).

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### III. CONCLUSION

The Applicant has the burden of proving eligibility for a waiver of inadmissibility. *See* section 291 of the Act, 8 U.S.C. § 1361. The Applicant has met that burden. She has established extreme hardship to her spouse and that a favorable exercise of discretion is warranted.

**ORDER:** The appeal is sustained.

Cite as *Matter of* ██████-, ID# ██████ (AAO Dec. 20, 2016)