U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 17383915

Date: FEB. 8, 2022

Appeal of Nebraska Service Center Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant seeks a waiver of inadmissibility under section 212(h) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(h), for having been convicted of a crime involving moral turpitude.

The Director of the Nebraska Service Center denied the application, concluding that the Applicant 1) is statutorily ineligible for a waiver of inadmissibility because he was convicted of an aggravated felony after admission to the United States as a lawful permanent resident and 2) does not merit a favorable exercise of discretion under the heightened standard for a dangerous crime. On appeal, the Applicant asserts that he has been rehabilitated.

Upon *de novo* review, we will dismiss the appeal. *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

I. LAW

A noncitizen 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. Section 212(a)(2)(A)(i) of the Act. A discretionary waiver is available if denial of admission would result in extreme hardship to a United States citizen or lawful permanent resident spouse, parent, son, or daughter. Section 212(h)(1)(B) of the Act.

Section 212(h)(1)(A) of the Act also provides for a waiver where the activities occurred more than 15 years before the date of the application if admission to the United States would not be contrary to the national welfare, safety, or security of the United States, and the noncitizen has been rehabilitated. The burden is on the noncitizen to establish that a waiver of inadmissibility is warranted in the exercise of discretion. *Matter of Mendez-Moralez*, 21 I&N 296, 299 (BIA 1996). However, a favorable exercise of discretion is not warranted for noncitizens who have been convicted of a violent or dangerous crime, except in extraordinary circumstances, such as cases involving national security or foreign policy considerations, or when an applicant "clearly demonstrates that the denial…would result in exceptional and extremely unusual hardship" according to 8 C.F.R. § 212.7(d). Exceptional and extremely unusual hardship "must be 'substantially' beyond the ordinary hardship that would be

expected when a close family member leaves this country." *Matter of Monreal-Aguinaga*, 23 I&N Dec. 56, 62 (BIA 2001). Even if the noncitizen were able to show the existence of extraordinary circumstances pursuant to 8 C.F.R. § 212.7(d), that alone may not be enough to warrant a favorable exercise of discretion. *See Matter of Jean*, 23 I&N Dec. 373 (A.G. 2002) (providing that if the noncitizen's underlying criminal offense is grave, a showing of exceptional and extremely unusual hardship might still be insufficient to grant the immigration benefit as a matter of discretion).

However, a waiver is not available to a noncitizen who has previously been admitted to the United States as a lawful permanent resident if, since the date of such admission, the noncitizen has been convicted of an aggravated felony. Section 212(h)(2) of the Act.

In these proceedings, it is the applicant's burden to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe,* 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

As explained in the Director's decision, the Applicant was admitted to the United States as a lawful permanent resident on June 21, 1986. On [redacted] 1999, he was convicted of a crime of moral turpitude (other than a purely political offense) by the New Jersey Superior Court at [redacted] in violation of N.J. Stat. Ann. § 2C:24-4. On [redacted] 2004, the Applicant was ordered removed as a noncitizen convicted of an aggravated felony pursuant to section 237(a)(2)(A)(iii) of the Act, 8 U.S.C. § 1227(a)(2)(A)(iii), and was removed from the United States on [redacted] 2004. As a result, the Director concluded that the Applicant is statutorily ineligible for a waiver pursuant to section 212(h)(2) of the Act. The Director also determined that because the Applicant's conviction qualifies as a dangerous crime, he does not merit a favorable exercise of discretion under the heightened exceptional and extremely unusual hardship standard. The Applicant does not contest that he 1) is inadmissible for committing a crime involving moral turpitude, 2) is subject to the heightened discretionary standard, and 3) was convicted of an aggravated felony after admission to the United States as a lawful permanent resident.

On appeal, the Applicant asserts that he is eligible for a rehabilitation waiver pursuant to section 212(h)(1)(A) of the Act. However, even if the Applicant were to demonstrate that he qualifies for a rehabilitation waiver, he would remain statutorily ineligible for a waiver under section 212(h)(2) of the Act.

Since the Applicant's statutory ineligibility for a waiver is dispositive of the appeal, we hereby reserve and decline to address the remaining issues. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.