



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

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

In Re: 29655801

Date: DEC. 18, 2023

Appeal of Oakland Park, Florida Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of South Korea, sought to adjust status to that of a lawful permanent resident, which requires her to show, inter alia, that she is admissible to the United States or eligible for a waiver of inadmissibility. Section 245(a)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255(a)(2). The Applicant was found inadmissible under 212(a)(2)(D)(ii) of the Act, 8 U.S.C. § 1182(a)(2)(D)(ii), for procuring or attempting to procure or import persons for prostitution.<sup>1</sup> The Applicant seeks a waiver of her inadmissibility under section 212(h) of the Act. The Director of the Oakland Park, Florida Field Office, denied the waiver request as a matter of discretion, concluding that no purpose would be served in adjudicating it because the Applicant's underlying adjustment application had already been denied on grounds unrelated to her inadmissibility. The matter is now before us on appeal, which we review de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

Any noncitizen who directly or indirectly procures or attempts to procure, or (within 10 years of the date of application of adjustment of status) procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution, or receive or (within such 10-year period) received, in whole or in part, the proceeds of prostitute is inadmissible under section 212(a)(2)(D)(ii) of the Act. There is a discretionary waiver for this ground of inadmissibility under section 212(h) of the Act. The Applicant has the burden to establish eligibility for the benefit sought 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).

The record indicates that the Applicant is inadmissible under section 212(a)(2)(D)(ii) of the Act for having procured or imported persons for the purpose of prostitution within 10 years of filing her application to adjust status, and she concedes that she is inadmissible under this section of the Act.<sup>2</sup> The Director denied the Applicant's adjustment application, concluding in part that she did not demonstrate that she warranted a favorable exercise of discretion. As stated, the Director subsequently

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<sup>1</sup> The Director also found the Applicant inadmissible under section 212(a)(2)(A)(i)(I) of the Act for having been convicted of a crime involving moral turpitude ("CIMT").

<sup>2</sup> The Applicant admits, and the record shows, that in 2016, she was convicted in South Korea for "arrangement of commercial sex acts, etc." in violation of Article 30 of the South Korean Criminal Act and ordered to pay a fine of four million won, for having accompanied two females to [redacted] for the purpose of having them engage in sexual intercourse with a man in exchange for payment and the Applicant transmitted the payment to her former partner. This offense of which she was convicted carried a 3-year maximum imprisonment sentence and a fine of 30 million won.

also denied her section 212(h) waiver application as a matter of discretion without reaching its merits because no purpose would be served in adjudicating it without a pending application to adjust status.

The Applicant on appeal reasserts her eligibility for a section 212(h) waiver of inadmissibility, including claims related to her spouse's hardship and mitigating factors for her criminal conviction. But she does not dispute the fact the Director denied her waiver application for lack of a pending adjustment application. As the record shows that the Applicant's adjustment application was denied on a basis unrelated to her section 212(a)(2)(D)(ii) inadmissibility and related waiver request, and she therefore no longer has a pending underlying application to adjust status, no purpose would be served in adjudicating the waiver application. We will therefore dismiss the Applicant's appeal.

**ORDER:** The appeal is dismissed.