U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 25022779

Date: MAR. 16, 2023

Appeal of Atlanta, Georgia Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

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

The Director of the Atlanta, Georgia Field Office denied the Form I-601, Application to Waive Inadmissibility Grounds (waiver application), concluding that the Applicant did not provide evidence establishing a relationship to a qualifying family member and failed to submit a statement outlining the prevailing hardships to a qualifying family member. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter 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.

Section 212(a)(2)(A)(i)(I) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(I), provides that any 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.

Individuals found inadmissible under section 212(a)(2)(A)(i)(I) of the Act for a crime involving moral turpitude may seek a discretionary waiver of inadmissibility under section 212(h) of the Act. Section 212(h)(1)(A) of the Act provides for a discretionary 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. Alternatively, a waiver is available for individuals who demonstrate that denial of admission would result in extreme hardship to a U.S. citizen or lawful permanent resident (LPR) spouse, parent, son, or daughter. Section 212(h)(1)(B) of the Act.

The Applicant, a native and citizen of Honduras currently living in the United States, filed a Form I-601, Application to Waive Inadmissibility Grounds with USCIS in February 2013.

U.S. Citizenship and Immigration Services (USCIS) does not have any authority to adjudicate the Applicant's waiver application absent a pending application for adjustment of status, application for a K or V nonimmigrant visa or application for an immigrant visa. *See* 8 C.F.R. § 212.7(a). There is no record of the Applicant filing a Form I-485, Application to Register Permanent Residence or Adjust Status (adjustment application). The record is also absent evidence that the Applicant filed an application for a K or V nonimmigrant visa or an immigrant visa.

As the Applicant does not currently have a pending adjustment application, an application for a K or V nonimmigrant visa, or an application for an immigrant visa there is no basis for this appeal. Accordingly, this waiver application is unnecessary, and we will dismiss the appeal as moot.

ORDER: The appeal is dismissed.