



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

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

In Re: 15775586

Date: DEC. 22, 2023

Appeal of Vermont Service Center Decision

Form I-612, Application for Waiver of the Foreign Residence Requirement (under Section 212(e) of the Immigration and Nationality Act, as Amended)

The Applicant seeks a waiver of the two-year foreign residence requirement for certain J nonimmigrant visa holders. Immigration and Nationality Act (the Act) section 212(e), 8 U.S.C. § 1182(e). The Director of the Vermont Service Center denied the application and 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 as moot.

Under section 212(e) of the Act, a noncitizen admitted under section 101(a)(15)(J) of the Act who is subject to a two-year foreign residency requirement is not eligible to apply for an immigrant visa, permanent residence, or an H or L nonimmigrant visa until it is established that the noncitizen has resided and been physically present in the country of his or her nationality or last residence for an aggregate of at least two years following departure from the United States.

In the instant case, the Applicant filed his Form I-612 in December 2019, seeking a waiver of his two-year foreign residence requirement. The Vermont Service Center denied the application in August 2020 and the Applicant subsequently filed an appeal of the Director's decision. Government records indicate that the Applicant departed the United States in February 2021 and has remained outside the country. Therefore, we will dismiss the appeal as moot as the Applicant would no longer need to waive the two-year residency requirement.

ORDER: The appeal is dismissed.