U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 17124699

Date: MAY. 18, 2022

Appeal of Los Angeles, California Field Office Decision

Form I-212, Application for Permission to Reapply for Admission

The Applicant seeks permission to reapply for admission to the United States under section 212(a)(9)(C)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(C)(ii). U.S. Citizenship and Immigration Services (USCIS) may grant permission to reapply for admission to the United States in the exercise of discretion for those who establish their eligibility.

The Director of the Los Angeles, California Field Office denied the Form I-212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal, indicating that the Applicant did not respond to a request for evidence (RFE) requesting certified translations of its statements submitted on appeal.[1]

In these proceedings, it is the Applicant's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

Section 212(a)(9)(C)(i) of the Act, 8 U.S.C. § 1182(a)(9)(C)(i), provides that any noncitizen who has been unlawfully present in the United States for an aggregate period of more than 1 year, or has been ordered removed, and who enters or attempts to reenter the United States without being admitted, is inadmissible. Noncitizens found inadmissible under section 212(a)(9)(C) of the Act may seek permission to reapply for admission under section 212(a)(9)(C)(ii), which provides that inadmissibility shall not apply to a noncitizen seeking admission more than ten years after the date of last departure from the United States if, prior to the reembarkation at a place outside the United States or attempt to be readmitted from a foreign contiguous territory, the Secretary of Homeland Security has consented to the noncitizen's reapplying for admission.

On appeal, the Applicant contends that it did not respond to the Director's RFE because it was sent to the wrong address, or an older address later updated pursuant to a change of address filed by the Applicant with U.S. Citizenship and Immigration Services (USCIS). Upon review, we agree with the Applicant that the Director erred by sending the RFE to the incorrect address; therefore, the application should not have been denied on this basis.

[1] We note that a substantial portion of the answers provided on the Form I-212 were in Spanish without certified translations.

However, we note that on appeal the Applicant does not submit full certified translations of its statements provided in support of the Form I-212 despite being put on notice of this deficiency in the Director's denial. Although the Director committed a procedural error by sending the RFE to an incorrect address, it is not clear what remedy would be appropriate beyond the appeal process itself. The Applicant has not supplemented the record on appeal with certified translations, therefore it would serve no useful purpose to remand the case simply to afford him the opportunity to supplement the record again with new evidence. The Applicant was put on notice of the deficiency in its Form I-212 application in the Director's denial, namely substantial untranslated portions, and it has not remedied this deficiency on appeal. Any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. *Id.* Because the Applicant did not submit a properly certified English language translation of the document, we cannot meaningfully determine whether the translated material is accurate and thus supports his claims.

Notwithstanding the Director's error, we will dismiss the appeal, and the application will remain denied. In a translated portion of the Form I-212, the Applicant indicated that he was unlawfully present in the United States from June 2006 to August 2007, departed on August 30, 2007, and subsequently reentered without inspection on August 27, 2018.[2] As such, the Applicant is inadmissible under section 212(a)(9)(C)(i) of the Act and does not dispute this inadmissibility.

However, no purpose would be served in adjudicating the Applicant's application for permission to reapply as it would not result in his adjustment of status to that of a noncitizen lawfully admitted for permanent residence. The Form I-212 instructions state that the form may be filed if a noncitizen is inadmissible under section 212(a)(9)(C) of the Act and they are: 1) an applicant for an immigrant visa; 2) an applicant who wishes to seek admission as a nonimmigrant at a U.S. port-of-entry who is not required to obtain a nonimmigrant visa; or 3) an applicant for a nonimmigrant visa at a U.S. Consulate.[3] Here, USCIS records do not reflect that the Applicant has filed an application for an immigrant visa, nor do they indicate that he meets any of the other listed criteria for filing a Form I-212. Therefore, the appeal of the denial of the Form I-212 will be dismissed as a matter of discretion.

ORDER: The appeal is dismissed.

[2] We note that in Section 8 of the Form I-212 the Applicant checked "Yes" when answering the following question: "I entered or attempted to enter the United States without being admitted or paroled, after having been unlawfully present in the United States on or after April 1, 1997, for a period of more than one year, in the aggregate."

[3] *See* form instructions at https://www.uscis.gov/sites/default/files/document/forms/i-212instr.pdf; *see also* 8 C.F.R. § 103.2(a)(1), which states in part that, "Every form, benefit request, or other document must be submitted to [Department of Homeland Security] and executed in accordance with the form instructions regardless of a provision of 8 CFR chapter I to the contrary. The form's instructions are hereby incorporated into the regulations requiring its submission."