U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 29404825

Date: DEC. 22, 2023

Appeal of Nebraska Service Center Decision

Form I-212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal

The Applicant, a native and resident of Mexico, seeks permission to reapply for admission to the United States under section 212(a)(9)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(iii) for having been previously ordered removed.

The Director of the Nebraska Service Center denied the application, concluding that the Applicant did not provide evidence that he is an applicant for an immigrant visa, who was interviewed by a U.S. Department of State consular officer, and found inadmissible under a section of the Act which requires the filing of a Form I-212. The Director noted that the Applicant was removed from the United States in April 2016 under section 235(b)(1) of the Act and prohibited from attempting to enter the United States for five years from the date of departure. 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.

Prior to denying the Form I-212, the Director issued a request for evidence (RFE) that the Applicant applied for an immigrant visa or adjustment of status under section 245 of the Act. The Applicant did not submit a response to the RFE and the Director denied the application. On appeal, the Applicant states that he has not attempted to enter the United States since his 2016 removal and asserts that he merits a favorable exercise of discretion in light of the economic hardship he would suffer if the Form I-212 is denied.

A review of the record establishes the Applicant was expeditiously removed from the United States under section 235(b) of the Act and would be inadmissible pursuant to section 212(a)(9)(A)(i) if he were seeking admission to the United States within five years after his removal. The Applicant's expeditious removal occurred in April 2016, more than five years ago. Therefore, the Applicant is no longer inadmissible pursuant to section 212(a)(9)(A)(i) and does not require permission to reapply for admission at this time. Therefore, we will dismiss the appeal as further pursuit of the matter is moot.

ORDER: The appeal is dismissed.