U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 26480861

Date: MAY 11, 2023

Appeal of St. Thomas, U.S. Virgin Islands Field Office Decision

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

The Applicant 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. *See* section 212(a)(9)(A)(ii) of the Act.

The Director of the St. Thomas, U.S. Virgin Islands Field Office denied the application, noting the Applicant's money laundering and bank fraud convictions and concluding that because the Applicant is inadmissible indefinitely to the United States, her request for permission to reapply for admission should be denied as a matter of discretion. The matter is now before us on appeal. 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)(9)(A)(ii) of the Act provides, in part, that a noncitizen who has been ordered removed under section 240 or any other provision of law, or who departed the United States while an order of removal was outstanding, and who seeks admission at any time in the case of a noncitizen convicted of an aggravated felony, is inadmissible. Noncitizens found inadmissible under section 212(a)(9)(A) of the Act may seek permission to reapply for admission under section 212(a)(9)(A)(iii) of the Act if, prior to the date of the reembarkation at a place outside the United States or attempt to be admitted from foreign continuous territory, the Secretary of Homeland Security has consented to the noncitizens's reapplying for admission.

Approval of an application for permission to reapply is discretionary, and any unfavorable factors will be weighed against the favorable factors to determine if approval of the application is warranted as a matter of discretion. *See Matter of Lee*, 17 I&N Dec. 275, 278-79 (Reg'l Comm'r 1978). However, when an applicant will remain mandatorily inadmissible or excludable from the United States, no purpose would be served in granting the application for permission to reapply. *Matter of Martinez-Torres*, 10 I&N Dec. 776 (Reg'l Comm'r 1964); *Matter of J-F-D-*, 10 I&N Dec. 694 (Reg'l Comm'r 1963).

The record shows that in 2007, the Applicant was convicted of money laundering, bank fraud, conspiracy to commit money laundering, and conspiracy to commit bank fraud, in violation of 18 U.S.C. §§ 1956(a)(1)(B)(i), 1344, 1956(h), and 371, and was sentenced to 96 months imprisonment. The Applicant states that she was ultimately ordered removed but has remained in the United States to date.

We adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS,* 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS,* 87 F3d 5, 8 (1st Cir. 1996) (joining eight U.S. Courts of Appeals in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case."). A waiver of inadmissibility is not available for inadmissibility under section 212(a)(2)(I) of the Act for money laundering.[1] Because the Applicant remains mandatorily inadmissible to the United States, we will dismiss the instant appeal of the denial of the Form I-212 as a matter of discretion as its approval would serve no purpose . *Matter of Martinez-Torres, supra*; *Matter of J-F-D, supra*. Accordingly, the Applicant's application for permission to reapply for admission will remain denied.

ORDER: The appeal is dismissed.

[1] *See* section 212(h) of the Act, Waiver of subsection (a)(2)(A)(i)(I), (II), (B), (D), and (E). A waiver based on extreme hardship to an applicant's U.S. citizen or lawful permanent resident spouse, parent, son, or daughter, is not available for inadmissibility under section 212(a)(2)(I) of the Act for money laundering.
See also section 212(a)(2)(I) of the Act, Money laundering. Any alien (i) who a consular officer or the Attorney General knows, or has reason to believe, has engaged, is engaging, or seeks to enter the United States to engage, in an offense which is described in section 1956 or 1957 of title 18 (relating to laundering of monetary instruments); or (ii) who a consular officer or the Attorney General knows is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with others in an offense which is described in such section; is inadmissible.