



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

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

In Re: 25725656

Date: MAY 18, 2023

Appeal of Baltimore, Maryland 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 ordered deported. *See* section 212(a)(9)(A)(ii) of the Act.

The Director of the Baltimore, Maryland Field Office denied the application as a matter of discretion, concluding that as the Applicant's Form I-485, Application to Register Permanent Residence or Adjust Status (Form I-485), had been denied, no purpose would be served in granting permission to reapply for admission. On appeal, the Applicant contends that he is eligible to adjust status in the United States<sup>1</sup> and thus, his request for permission to reapply for admission should be adjudicated on the merits. 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 noted by the Director, the Applicant was found ineligible for adjustment of status before U.S. Citizenship and Immigration Services and denied the Form I-485 accordingly. We thus find that as a result of the Form I-485 denial, 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 an alien lawfully

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<sup>1</sup> The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. See DHS Delegation Number 0150.1 (effective March 1, 2003); see also 8 C.F.R. 5 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). A determination of the Applicant's eligibility to adjust status is outside the scope of this appeal. We cannot exercise appellate jurisdiction over additional matters on our own volition, or at the request of an applicant or petitioner. Any argument or evidence concerning whether the Applicant is statutorily eligible to adjust status must be submitted to the Director in the form of a motion to reopen or reconsider the denial of Form I-485.

admitted for permanent residence.<sup>2</sup> The appeal of the denial of the Form I-212 will therefore be dismissed as a matter of discretion.

**ORDER:** The appeal is dismissed.

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<sup>2</sup> We recognize that individuals who currently reside in the United States may seek conditional approval of a Form I-212 prior to their departure from the United States under the regulation at 8 C.F.R. § 212.2(j). The record fails to establish that the Applicant intends to apply for an immigrant visa and is thus seeking conditional permission to reapply for admission prior to departing the United States.