



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

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

In Re: 19327670

Date: JUN. 14, 2022

Appeal of Charlotte, North Carolina Field Office Decision

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

The Applicant, a native and citizen of El Salvador, 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), because she will be inadmissible upon departing from the United States for having been previously ordered removed. Permission to reapply for admission to the United States is an exception to this inadmissibility, which U.S. Citizenship and Immigration Services (USCIS) may grant in the exercise of discretion.

The Director of the Charlotte, North Carolina Field Office denied the application as a matter of discretion, concluding that upon departure from the United States, the Applicant will be inadmissible under section 212(a)(6)(B) of the Act, 8 U.S.C. § 1182(a)(6)(B), for failing to attend her removal proceedings. Since this inadmissibility cannot be waived, the Director found that there was no purpose to approving the Form I-212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal. The matter is now before us on appeal.

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

I. LAW

Section 212(a)(6)(B) of the Act states that any noncitizen who fails or refuses to attend or remain in attendance at a proceeding to determine their inadmissibility or deportability, and who has no reasonable cause for this, is inadmissible for five years after that noncitizen's subsequent departure or removal.

Section 212(a)(9)(A)(i) of the Act states that a noncitizen ordered removed at the end of proceedings under section 240 of the Act which were initiated upon that noncitizen's arrival in the United States will be inadmissible for five years after the date of their subsequent departure or removal from the United States. Section 212(a)(9)(A)(ii) of the Act provides that any noncitizen who has been ordered removed or departed the United States while an order of removal was outstanding, and who seeks admission within 10 years of the date of such departure or removal (or within 20 years of such date in

the case of a second or subsequent removal or at any time in the case of a noncitizen convicted of an aggravated felony) is inadmissible. Section 212(a)(9)(A)(iii) of the Act provides that USCIS may grant an exception to these inadmissibility grounds in the exercise of discretion.

Under 8 C.F.R. § 103.3(a)(1)(v), if an appellant fails to specifically identify any erroneous conclusion of law or statement of fact for their appeal, the appeal shall be summarily dismissed.

II. ANALYSIS

The record indicates that the Applicant attempted to enter the United States without inspection on or around [REDACTED] 2005. Upon being intercepted, she was served a Form I-862, Notice to Appear, and was released on her own recognizance. On [REDACTED] 2006, the Applicant failed to appear at her immigration hearing and was ordered removed *in absentia* by the Immigration Judge. The Applicant has not departed the United States since this time. On May 18, 2018, the Applicant's U.S. citizen spouse filed a Form I-130, Petition for Alien Relative, on her behalf. The Form I-130 was approved on January 22, 2020. On October 1, 2020, the Applicant filed Form I-212 to seek conditional permission to reapply for admission to the United States.

The record indicates, and that Applicant does not dispute, that upon her departure, the Applicant will become inadmissible to the United States under section 212(a)(9)(A) of the Act. The Applicant seeks an exception to this inadmissibility under section 212(a)(9)(A)(iii) of the Act.¹

However, in denying the Form I-212, the Director found that the Applicant did not have a reasonable cause for failing to attend her removal hearing. Therefore, the Director found that upon departure from the United States, the Applicant will also become inadmissible under section 212(a)(6)(B) of the Act as a noncitizen who failed to attend a removal proceeding, had no reasonable cause for this failure, and seeks admission within five years of departure. There is no exception or waiver for this ground of inadmissibility.

The Director denied the application as a matter of discretion, concluding that since there is no waiver for inadmissibility under section 212(a)(6)(B) of the Act, there would be no purpose to approving the Form I-212. On appeal, the Applicant submits a copy of the denial notice for their Form I-212, a copy of the approval notice for the Form I-130 filed on the Applicant's behalf, and a letter requesting reopening and reconsideration of the Director's denial so that the Applicant can seek an immigrant visa abroad. However, none of the materials provided identify any erroneous conclusion of law or statement of fact in the Director's decision. 8 C.F.R. § 103.3(a)(1)(v). For this reason, we will summarily dismiss the appeal.

ORDER: The appeal is summarily dismissed under 8 C.F.R. § 103.3(a)(1)(v).

¹ The Applicant is seeking conditional approval of her Form I-212 under 8 C.F.R. § 212.2(j) before departing the United States. The approval of the Form I-212 under these circumstances is conditioned upon the Applicant's departure from the United States and would have no effect if she failed to depart.