



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

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

In Re: 25713600

Date: MAY 24, 2023

Appeal of Houston, Texas Field Office Decision

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

The Applicant, who requested to adjust her status to that of a lawful permanent resident (LPR) 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), after having been previously ordered removed.

The Director of the Houston, Texas Field Office initially denied the application in September 2022, concluding that granting permission to reapply for admission would serve no purpose, because the Applicant's Form I-485, Application to Register Permanent Residence or Adjust Status, had been denied and the Applicant did not establish she had another basis to seek admission to the United States as an immigrant. In December 2022 the Director reopened the Form I-212 on Service motion pursuant to the regulation at 8 C.F.R. § 103.5(a)(5) and issued a notice informing the Applicant that the basis for the denial was incorrect. The Director advised the Applicant that U.S. Citizenship and Immigration Services (USCIS) nevertheless intended to deny her Form I-212 on another ground; specifically, because the Applicant did not depart from the United States after having been ordered removed in 2016, she remained in removal proceedings and USCIS was without jurisdiction to adjudicate her Form I-212. The Director further advised the Applicant that she could submit a brief or additional evidence in support of her Form I-212 within 30 days, and the record includes the Applicant's brief in response to the Director's notice of Service motion.

The matter is now before us on appeal. The Applicant submits evidence that an Immigration Judge dismissed the removal proceedings without prejudice to allow her to pursue adjustment of status before USCIS based on an approved Petition for Special Immigrant Juvenile (Form I-360) with a current priority date.

We acknowledge the submission of this additional evidence. However, as the record before us does not indicate that the Director issued a final decision on the Applicant's Form I-212, the appeal is premature.

In view of the above, we will return the matter to the Director to review the record, as supplemented, and to complete adjudication of the Applicant's request for permission to reapply for admission to the United States.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision on the Applicant's Form I-212.