U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 26138567

Date: JUN. 13, 2023

Appeal of Nebraska Service Center Decision

Form I-601, Application for Waiver of Grounds of Inadmissibility

The Applicant, a native and resident of El Salvador, has applied for an immigrant visa and seeks a waiver of inadmissibility for unlawful presence under section 212(a)(9)(B)(v) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(v). A U.S. Department of State (DOS) consular officer found the Applicant inadmissible for having accrued unlawful presence of one year or more under section 212(a)(9)(B)(i)(II) of the Act and for failure to attend removal proceedings under section 212(a)(6)(B) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant a discretionary waiver of inadmissibility under section 212(a)(9)(B)(i)(II) of the Act if refusal of admission would result in extreme hardship to a qualifying relative. Section 212(a)(9)(B)(v) of the Act. There is no comparable waiver of inadmissibility under section 212(a)(6)(B) of the Act.

The Director of the Nebraska Service Center denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (waiver application), as a matter of eligibility and discretion, concluding that, because the Applicant was inadmissible under a ground for which there is no waiver available, approval of the waiver application would serve no purpose. *See Matter of J-F-D-,* 10 I&N Dec. 694 (Reg'l Comm'r 1963) (finding that where an applicant will remain inadmissible even if a waiver is granted, the remaining inadmissibility may itself support a denial of the waiver application as a matter of discretion). 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.

USCIS records confirm that the Applicant entered the United States without inspection in February 2000 and was placed in removal proceedings. In [redacted] 2001, the Applicant was ordered removed *in absentia* after failing to appear for his hearing with an Immigration Judge. On appeal, the Applicant does not contest or otherwise address his inadmissibility under section 212(a)(6)(B) of the Act in any way, only disputing his inadmissibility under section 212(a)(9)(B)(i)(II) of the Act.[1] In that he is

[1] The applicant indicated on his Form I-290B, Notice of Appeal or Motion (Form I-290B), that he would file a brief within 30 days of submission. To date, no brief has been received.

subject to the bar at section 212(a)(6)(B) of the Act, no purpose is served by a consideration of the waiver application and it remains denied.

ORDER: The appeal is dismissed.