



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

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

In Re: 28182253

Date: OCT. 26, 2023

Appeal of Los Angeles, California Field Office Decision

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

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).

The Director of the Los Angeles, California Field Office denied the Form I-212, Application for Permission to Reapply for Admission into the United States Following Deportation or Removal, noting that the Applicant was also found inadmissible for a conviction related to a controlled substance violation under section 212(a)(2)(A)(i)(II) of the Act for which no waiver is available. In a separate decision, the Director denied the Applicant's I-485, Application to Register Permanent Residence or Adjust Status, and dismissed the subsequent motion to reopen and reconsider. The Director concluded, in part, that the Applicant was inadmissible due to his 1992 conviction for possession of 25.95 pounds of marijuana and is not eligible for a waiver under section 212(h) of the Act.¹

On appeal, the Applicant argues that the Director erred by not fully considering the favorable factors of his case when determining whether approval of the application is warranted as a matter of discretion. However, an application for permission to reapply for admission is properly denied, in the exercise of discretion, to an applicant who is mandatorily inadmissible to the United States under another section of the Act, as no purpose would be served in granting the application. *Matter of Martinez-Torres*, 10 I&N Dec. 776 (Reg'l Comm'r 1964). A review of the record supports the Director's determination that the Applicant is inadmissible due to his conviction related to a controlled substance violation for which no waiver is available. We will dismiss the appeal of the denial of his application for permission to reapply for admission as a matter of discretion.

ORDER: The appeal is dismissed.

¹ Any noncitizen who admits having committed acts which constitute the essential elements of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), is inadmissible. Section 212(a)(2)(A) of the Act. Individuals found inadmissible under section 212(a)(2)(A) of the Act for a controlled substance violation related to a single offense of simple possession of 30 grams or less of marijuana may seek a discretionary waiver of inadmissibility under section 212(h) of the Act.