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Comment Submitted by Immigrant ARC

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Immigrant ARC I-191 Revision Comment_FINAL

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Secretary Alejandro Mayorkas
Department of Homeland Security
U.S. Citizenship and Immigration Services
5900 Capital Gateway Drive
Camp Springs, MD 20746

Submitted to https://www.federalregister.gov/

RE: Agency Information Collection Activities: Revision of a Currently Approved Collection: Application for Relief Under Former § (212)(c) of the Immigration and Nationality Act; OMB Control Number 1615-0016; Docket ID USCIS-2006-0070

I. Introduction

The Immigrant Advocates Response Collaborative ("I-ARC") submits the following comment to address the proposed revision of Form I-191, the Application for Relief Under Former § 212(c) of the Immigration and Nationality Act. Through this form, a lawful permanent resident may be granted a deportation waiver, if they were rendered deportable by a criminal conviction adjudicated prior to April 1, 1997, but would have been eligible for relief under the version of former INA § 212(c) that was in effect on the day they pleaded guilty or were convicted.[1] I-ARC supports several of the changes made to the form, and proposes additional updates.

I-ARC is a collaborative of over 80 organizations and professional associations that provide legal services, throughout the State of New York to immigrant communities, and serves as a policy and training institute. It was established in 2017 as a collaborative of lawyers who provided immigration services from JFK following the Trump administration's halting of all visas from seven Muslim-majority countries, colloquially known as the "Muslim Travel Ban." In 2020, I-ARC became a stand-alone non-profit organization. Our mission is to increase access to counsel for immigrant New Yorkers by mobilizing New York State's legal service providers and addressing the systemic barriers to justice that immigrants face. It is due to our commitment to supporting access to counsel and access to justice for immigrants, that we submit this comment. Our positions are listed below:

A. I-ARC supports the revision of both the form and instruction in parts 9, 10 and 11 which collect the contact information, declaration, and signature of the applicant, interpreter, and preparer of the form respectively, because the simplification and reduction of the language in these parts adequately balances the necessity to collect the information, with the need for a streamlined methodology that is clearer and reduces the burden on the applicant.

[1] U.S. Citizenship and Immigration Services, Instructions for Form I-191 (July 20, 2021), 1-3, https://www.uscis.gov/sites/default/files/document/forms/i-191instr.pdf.

B. I-ARC recommends that the form and instructions retain the statement in part 11, reminding preparers of the Form I-191 who are attorneys or DOJ accredited reps to submit a G-28 because it is a clear statement which supports the proper functions of the form.

II. Background

Since Congress passed sweeping legislation in 1996 to toughen immigration enforcement, more than 4.6 million noncitizens have been removed including about 3.7 million of removals occurring since the creation of the Department of Homeland Security.[2] In 1996 about 70,000 immigrants were deported, but by 2012 deportations had risen to 419,000.[3] Furthermore, from 2011 to 2013, criminal removals accounted for 80% of interior removals.[4] The application of relief under former § (212)(c), and its application solely to immigrants who were convicted or plead guilty prior to April 1, 1997 is a reminder that our immigration system has become more draconian and less forgiving. I-ARC wishes to remind USCIS that the impact to families and communities sustained by the immigration system should be centered when addressing changes in policy.

III. Discussion

A. I-ARC supports several revisions made to Form I-191 Parts 9, 10, and 11 and their corresponding instructions because the revisions both support the proper performance of their duty and promote clarity and a decreased burden on the applicant.

The revisions in Part 9 of Form I-191, retitled" Contact Information, Certification, and Signature," and the corresponding instructions should be adopted. The changes to this part minimize the burden to applicants by eliminating confusing language, and promote utility by focusing on language designed to capture the signature and contact information of the applicant or their guardian. This is an improvement upon the present convoluted language which references the interpreter and preparer of the form, even though the information for these individuals is collected in parts 10 and 11 respectively. Removing the redundant language saves time for those who respond and allows for clarity of the information to be collected, making the guidance more user friendly. Therefore, the proposed revision of Part 9 of the Instructions for Form I-191 should be adopted.

Similarly, revisions in Part 10 of Form I-191, titled "Interpreter's Contact Information, Certification, and Signature" and the corresponding instructions promote utility, clarity, and the reduction of burdens on the applicant by eliminating the mailing address. The Interpreter's mailing

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[2] Marc R. Rosenblum and Kristen McCabe, Deportation and Discretion: Reviewing the Record and Options for Change (October 2014), https://www.migrationpolicy.org/research/deportation-and-discretion-reviewing-record-and-options-change.

[3] Marc R. Rosenblum and Doris Meissner, The Deportation Dilemma: Reconciling Tough and Humane Enforcement (April 2014), https://www.migrationpolicy.org/research/deportation-dilemma-reconciling-tough-humane-enforcement.

[4] Rosenblum and McCabe, supra note 10.

address does not have practical utility and is unnecessary for the determination of a lawful permanent resident's relief, and thus, the removal of such is appropriate. Additionally, requiring an interpreter to include their mailing address on the applicant's form may deter some qualified interpreters from offering support to applicants, for fear that providing their address to immigration authorities may draw them into immigration proceedings. If the interpreter is necessary to contact, the telephone number and email address provided should be sufficient. The proposed revision is also more concise. Accordingly, the time burden to those who respond is minimized.

Finally, the revisions in Part 11 of Form I-191 "Preparer's Mailing Address" and the portion of the proposed revisions to Part 11 of the Instructions for Form I-191 which plainly directs the preparer to sign the section should be adopted because they promote clarity and utility. Part 11 of Form I-191 addresses the "Contact Information, Declaration, and Signature of the Person Preparing This Application, if Other Than the Applicant." Like that of the interpreter, the preparer's mailing address does not have practical utility and is unnecessary for the determination of a lawful permanent resident's relief, and thus, the removal of such is appropriate. If the preparer is necessary to contact, a telephone number and email address provided should be sufficient. The edits made to the Preparer's Certification and Signature are clearer, more concise, and less redundant.

B. USCIS should implement additional revisions that would address undue burdens on applicants and promote clarity while continuing to promote the proper performance of their duty.

We believe Part 11 should retain the warning to attorneys who act as a preparer for an applicant as it may result in unintended consequences of a denial of an application. The statements in Part 11 of the Instructions for Form I-191 that notifies an attorney acting as a preparer that they may need to submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, should remain. It is a simple and clear statement that does not place undue burden on the applicant, and supports the proper performance of the function of the agency.

IV. Conclusion

We hope that the Department of Homeland Security and U.S. Citizenship and Immigration Services will consider implementing these changes to the Application for Relief Under Former Section 212(c) of the Immigration and Nationality Act. We believe these changes will have a positive impact on noncitizens and the effective and fair adjudications of their cases.

Sincerely,

The Immigrant Advocate Response Collaborative Inc.