Matter of Tirso MENDEZ MALDONADO, Respondent

Decided September 22, 2026

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

(1) The respondent's admission to possessing and using cocaine makes him inadmissible under section 212(a)(2)(A)(i)(II) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1182(a)(2)(A)(i)(II) (2024), and hence ineligible for adjustment of status.

(2) Section 212(a)(2)(A)(i)(II) of the INA, 8 U.S.C. § 1182(a)(2)(A)(i)(II), does not require that the alien be informed of the precise statutory definition with the essential elements of the offense in question prior to making an admission. *Matter of K-*, 7 I&N Dec. 594 (BIA 1957), and *Matter of J-*, 2 I&N Dec. 285 (BIA 1945), overruled.

FOR THE RESPONDENT: Eric G. Bjotvedt, Esquire, Phoenix, Arizona

BEFORE: Board Panel: MALPHRUS, Chief Appellate Immigration Judge; CREPPY and CHABAN, Appellate Immigration Judges.

CREPPY, Appellate Immigration Judge:

The respondent, a native and citizen of Mexico, appeals from the Immigration Judge's October 28, 2019, decision denying his application for adjustment of status under section 245(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1255(a) (2018). We will dismiss the appeal.

Under section 245(a) of the INA, 8 U.S.C. § 1255(a), the Attorney General may adjust an alien's status to that of a permanent resident if the alien was inspected and admitted or paroled into the United States, has an immigrant visa immediately available at the time the application for adjustment of status is filed, and is admissible to the United States for permanent residence. The Immigration Judge determined that the respondent is ineligible for adjustment of status because his admitted possession and use of cocaine renders him inadmissible under section 212(a)(2)(A)(i)(II) of the INA, 8 U.S.C. § 1182 (a)(2)(A)(i)(II) (2018).

Section 212(a)(2)(A)(i)(II) of the INA, 8 U.S.C. § 1182(a)(2)(A)(i)(II) (2024), provides:

> [A]ny alien convicted of, or who admits having committed, or who admits committing 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.

DHS submitted into evidence the respondent's Record of Sworn Statement, which was executed by a U.S. Citizenship and Immigration Services ("USCIS") officer on September 27, 2016, at the respondent's USCIS interview for adjustment of status in Tucson, Arizona.[1] The respondent admitted in his sworn testimony that he possessed and used cocaine in Arizona. Relying on this admission, the Immigration Judge found that the respondent admitted to committing a crime relating to a controlled substance and is thus inadmissible under section 212(a)(2)(A)(i)(II) of the INA, 8 U.S.C. § 1182 (a)(2)(A)(i)(II).

The respondent argues on appeal that his admission is invalid because he was not provided with a definition or the essential elements of the offense prior to his admission as required under *Matter of K-*, 7 I&N Dec. 594, 597 (BIA 1957). Under *Matter of K-*, "a valid admission of a crime for immigration purposes requires that the alien be given an adequate definition of the crime, including all essential elements, and that it be explained in understandable terms." *Id.* To the extent that *Matter of K-* is interpreted to require that a precise legal definition, including the essential elements of the crime, be provided to the alien in advance of an admission, such a rule exceeds what is required under the plain language of the statute to obtain a valid admission for immigration purposes. *Matter of K-* expressly acknowledged this when stating the rule. *Id.* *Matter of K-* relied in large part on the principles governing admissions that were articulated in *Matter of J-*, 2 I&N Dec. 285, 287–88 (BIA 1945) (listing six requirements for obtaining an admission). As the Board then recognized, the standards established in these two cases exceeded any statutory or regulatory requirements. The plain language of section 212(a)(2)(A)(i)(II) of the INA, 8 U.S.C. § 1182(a)(2)(A)(i)(II), does not require that the alien be informed of the precise statutory definition with the essential elements of the offense in question prior to making an admission. All that is required for an alien to be inadmissible under section 212(a)(2)(A)(i)(II) of the INA, 8 U.S.C.

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[1] The respondent argues that the sworn statement is unreliable because it is in English and lacks a certificate of Spanish translation. We discern no error in its admission. The document indicates that the interview was conducted with a Spanish interpreter, and government officials enjoy a "presumption of regularity" in the performance of their official duties. *See Cruz v. Bondi*, 146 F.4th 730, 739 (9th Cir. 2025) ("Courts have long presumed that official acts of public officers, in the absence of clear evidence to the contrary, properly discharged their official duties.") (citation modified).

§ 1182(a)(2)(A)(i)(II), is that the alien admits to committing acts which constitute the essential elements of a controlled substance offense.[2]

We acknowledge that the standards in *Matter of K-* were adopted for the purpose of ensuring that an alien receives "fair play" and to preclude any possible later claim by the alien that they were "unwittingly entrapped" into making an admission. *Matter of K-*, 7 I&N Dec. at 597. However, the respondent was not "unwittingly entrapped" into making an admission such that "fair play" is a concern as he testified voluntarily, under oath, and during the course of applying for adjustment of status. Requiring that an alien be informed of a statutory definition, including the elements of a crime, in advance of an admission is not necessary to ensure fairness in removal proceedings. An alien receives proper legal safeguards when provided a fundamentally fair hearing in their removal proceedings. *See Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (stating that immigration proceedings must conform "to traditional standards of fairness encompassed in due process of law"); *see also Matter of Exilus*, 18 I&N Dec. 276, 281 (BIA 1982) (stating that "the constitutional requirements of due process are satisfied by a full and fair hearing").

As long as the alien's admission is voluntary and the alien receives a fair hearing, there is no denial of due process. *See Shaughnessy v. United States ex rel. Mezei*, 345 U.S. at 212 ("Whatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned." (quoting *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1953)). Moreover, the Board does not have the authority to impose standards regarding an alien's admissibility beyond those set forth in our immigration laws. *See Garland v. Ming Dai*, 593 U.S. 357, 365 (2021) (recognizing that "a reviewing court is generally not free to impose additional judge-made procedural requirements on agencies that Congress has not prescribed and the Constitution does not compel" (citation omitted)). We will therefore overrule *Matter of K-*, 7 I&N Dec. at 594, and *Matter of J-*, 2 I&N Dec. at 285.

The transcript of the respondent's sworn statement reflects that the USCIS officer informed the respondent that section 13-3408(A)(1) of the Arizona Revised Statutes prohibits the possession or use of a narcotic drug and that section 13-3401 of the Arizona Revised Statutes defines cocaine as

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[2] Whether the offense concerns a crime involving moral turpitude under section 212(a)(2)(A)(i)(I) of the INA, 8 U.S.C. § 1182 (a)(2)(A)(i)(I) (2024), or a controlled substance under section 212(a)(2)(A)(i)(II) of the INA, 8 U.S.C. § 1182 (a)(2)(A)(i)(II), the analysis for obtaining a valid admission, as described herein, is the same.

a narcotic drug.[3] The USCIS officer also made the respondent aware of the essential elements of section 13-3408(A)(1) of the Arizona Revised Statutes. The USCIS officer explained that it was against the law in Arizona to possess cocaine, to carry cocaine on your person, and to use cocaine. The USCIS officer also asked the respondent if he knew that it was illegal to commit such acts in Arizona. After the USCIS officer provided these explanations, the respondent admitted that he knew using cocaine in Arizona was illegal and that he purchased cocaine from people on the street to consume at his home and outside of his home. The respondent also admitted to using cocaine monthly for a period of 2 years. The respondent additionally admitted that he was arrested for using cocaine.

While the USCIS officer essentially complied with the requirements of *Matter of K-*, the USCIS officer's interview of the respondent exceeded what is required to obtain an admission under section 212(a)(2)(A)(i)(II) of the INA, 8 U.S.C. § 1182(a)(2)(A)(i)(II). The respondent's admission to the USCIS officer that he possessed and used cocaine during his interview was sufficient to find him inadmissible for committing acts which constitute the essential elements of a law relating to a controlled substance under section 212(a)(2)(A)(i)(II) of the INA, 8 U.S.C. § 1182(a)(2)(A)(i)(II), even if he was not given a definition of the offense with the essential elements of the crime prior to making the admission.

The respondent claims his statements to the USCIS officer do not constitute an admission because he did not provide a responsive answer to whether he understood what constitutes a violation of Arizona law prohibiting the possession or use of cocaine. We discern no clear error in the Immigration Judge's finding that the respondent was aware that using cocaine in Arizona was against the law. As found by the Immigration Judge, the respondent replied "correct" when the USCIS officer asked him if he knew what constituted a cocaine violation in Arizona. Additionally, as found by the Immigration Judge, the respondent replied "that is correct" when the USCIS officer asked if he knew that using cocaine was illegal in Arizona. Accordingly, we conclude the respondent's statements to the USCIS officer concerning his repeated possession and use of cocaine are a valid admission to committing acts that constitute the essential elements of a law relating to a controlled substance, rendering him inadmissible under section 212(a)(2)(A)(i)(II) of the INA, 8 U.S.C. § 1182(a)(2)(A)(i)(II).

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[3] Section 13-3408(a)(1) of the Arizona Revised Statutes provides that "a person shall not knowingly . . . [p]ossess or use a narcotic drug."

Alternatively, an admission of criminal conduct elicited during testimony before an Immigration Judge constitutes a valid admission for purposes of section 212(a)(2)(A)(i)(II) of the INA, 8 U.S.C. § 1182(a)(2)(A)(i)(II). The respondent conceded during his removal proceedings before the Immigration Judge, while being questioned under oath in the presence of his attorney, that he possessed and used cocaine. The respondent's admission in Immigration Court to possessing and using cocaine provides a separate and independent basis for affirming the Immigration Judge's determination that the respondent is inadmissible under section 212(a)(2)(A)(i)(II) of the INA, 8 U.S.C. § 1182(a)(2)(A)(i)(II). *See Urzua Covarrubias v. Gonzales*, 487 F.3d 742, 749 (9th Cir. 2007) (holding that the procedural safeguards established in *Matter of J-* and *Matter of K-* are not applicable to testimony given under oath in Immigration Court while represented by counsel).

In view of the foregoing, we affirm the Immigration Judge's determination that the respondent's admission to possessing and using cocaine makes him inadmissible under section 212(a)(2)(A)(i)(II) of the INA, 8 U.S.C. § 1182(a)(2)(A)(i)(II), and hence ineligible for adjustment of status.

Accordingly, the following order will be entered.

ORDER: The appeal is dismissed.

NOTICE: If a respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, or to present himself or herself at the time and place required for removal by DHS, or conspires to or takes any action designed to prevent or hamper the respondent's departure pursuant to the order of removal, the respondent shall be subject to a civil monetary penalty of up to $998 for each day the respondent is in violation. *See* section 274D of the INA, 8 U.S.C. § 1324d (2024); 8 C.F.R. § 280.53(b)(14) (2026). Further, any respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than 2 years, or both. *See* INA § 276(a), 8 U.S.C. § 1326(a) (2024).