



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

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

In Re: 20915842

Date: APR. 05, 2022

Appeal of Vermont Service Center Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks “U-1” nonimmigrant classification under sections 101(a)(15)(U) and 214(p) of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1101(a)(15)(U) and 1184(p). The Director of the Vermont Service Center (Director) denied the Form I-918, Petition for U Nonimmigrant Status (U petition). The matter is now before us on appeal. On appeal, the Petitioner submits a brief and previously submitted evidence. The Administrative Appeals Office (AAO) reviews 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.

Section 212(d)(14) of the Act requires U.S. Citizenship and Immigration Services (USCIS) to determine whether any grounds of inadmissibility exist when adjudicating a U petition and provides USCIS with the authority to waive certain grounds of inadmissibility as a matter of discretion. A petitioner bears the burden of establishing that he or she is admissible to the United States or that any grounds of inadmissibility have been waived. *See* 8 C.F.R. § 214.1(a)(3)(i). For individuals seeking U nonimmigrant status who are inadmissible to the United States, the regulations at 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv) require the filing of a waiver application in conjunction with the U petition in order to waive any ground of inadmissibility. The regulation at 8 C.F.R. § 212.17(b)(3) states, in pertinent part: “[t]here is no appeal of a decision to deny a waiver.” Although the regulations do not provide for appellate review of the Director’s discretionary denial of a waiver application, we may, however, consider whether the Director’s underlying determination of inadmissibility was correct.

If it has been determined that an applicant has knowingly made a frivolous application for asylum, and the applicant has been advised of the privilege of representation by counsel and the consequences of frivolous filings, then the applicant shall be permanently ineligible for any benefits under section 208(d)(6) of the Act. A petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. 8 C.F.R. § 214.14(c)(4); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

The Director determined that since the Petitioner was found to have filed a frivolous application for asylum, he was ineligible for any benefits under the Act, including U nonimmigrant status under section 208(d)(6) of the Act. In 1999, the Petitioner was placed into removal proceedings and his Form I-589, Application for Asylum and for Withholding of Removal, was referred to Immigration

Court. In 2000, the Immigration Judge issued an order that the Petitioner “knowingly filed a frivolous asylum application for asylum after proper notice.” The Director also denied the Petitioner’s Form I-192, Application for Advance Permission to Enter as a Nonimmigrant (U waiver application), and held that she was inadmissible under the following grounds: 212(a)(6)(C)(i) for fraud or willful misrepresentation; 212(a)(7)(B)(i)(I) as a nonimmigrant without a valid passport/NIV; 212(a)(9)(A)(ii) as a nonimmigrant previously removed, not as an arriving alien; 212(a)(9)(B)(i)(II) as a non-legal permanent resident unlawfully present in the United States for one year or more; 212(a)(9)(C)(i)(I) as unlawfully present for one-year aggregate and entered or attempted to enter without being admitted; and 212(a)(9)(C)(i)(II) for being previously ordered removed and entered or attempted to enter without being admitted. In her discretionary analysis, the Director discussed the Petitioner’s frivolous asylum application, her extensive history of misrepresenting her identity to federal and state officials, and her admission that she married her husband in 2014 for the purpose of receiving an immigration benefit, among other negative factors.

On appeal, the Petitioner does not dispute that an Immigration Judge found that she filed a frivolous asylum application. Instead, she contends the Immigration Judge’s finding that she filed a frivolous asylum application should be considered a willful misrepresentation of a material fact, an inadmissibility ground under section 212(a)(6)(C)(i) of the Act and should be waived pursuant to section 212(d)(14) of the Act. Contrary to the Petitioner’s argument, while the Immigration Judge’s frivolous finding may also support a finding of inadmissibility for fraud/misrepresentation, it also renders the Petitioner permanently ineligible for benefits under the Act, including U classification. *See* section 208(d)(6) of the Act.

Additionally, the Petitioner does not contend that the inadmissibility grounds under sections 212(a)(6)(C)(i), 212(a)(7)(B)(i)(I), 212(a)(9)(B)(i)(II), 212(a)(9)(C)(i)(I), or 212(a)(9)(C)(i)(II) do not apply to her or demonstrate that the grounds of inadmissibility have been waived. For individuals seeking U nonimmigrant status who are inadmissible to the United States, the regulations at 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv) require the filing of a U waiver application, in conjunction with a U petition, in order to waive any ground of inadmissibility. Since the Petitioner’s U waiver application was denied and she does not contest any of the grounds of inadmissibility, the Petitioner is also ineligible for nonimmigrant classification under section 101(a)(15)(U)(i) of the Act, pursuant to 8 C.F.R. § 214.1(a)(3)(i).

As the Petitioner has not satisfied her burden of establishing that her frivolous asylum application did not permanently bar her from receiving immigrant benefits or that she is admissible to the United States or that the grounds of inadmissibility have been waived, she is consequently ineligible for nonimmigrant classification under section 101(a)(15)(U)(i) of the Act, pursuant to 8 C.F.R. § 214.1(a)(3)(i).

**ORDER:** The appeal is dismissed.