



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

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

In Re: 23431985

Date: DEC. 19, 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), as the victim of qualifying criminal activity. The Director of the Vermont Service Center denied the Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that the record did not establish the Petitioner’s admissibility. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner 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.

U.S. Citizenship and Immigration Services (USCIS) determines whether a petitioner is inadmissible—and, if so, on what grounds—when adjudicating a U petition, and has the authority to waive certain grounds of inadmissibility as a matter of discretion. Section 212(d)(14) of the Act, 8 U.S.C. § 1182(d)(14). A petitioner bears the burden of establishing that they are admissible to the United States or that any applicable ground of inadmissibility has been waived. 8 C.F.R. § 214.1(a)(3)(i). To meet this burden, a petitioner must file a Form I-192, Application for Advance Permission to Enter as Nonimmigrant (waiver application), in conjunction with the U petition, requesting waiver of any grounds of inadmissibility. 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv). The denial of a waiver application is not appealable. 8 C.F.R. § 212.17(b)(3). Although we do not have jurisdiction to review the Director’s discretionary denial, we may consider whether the Director’s underlying determination of inadmissibility was correct.

In March 2015, the Petitioner filed his U petition and concurrently filed his waiver application. On his waiver application, the Petitioner acknowledged that he had entered the United States without inspection or parole in February 2002. He further stated his belief that he may be inadmissible due to his criminal convictions. The record reflects that the Petitioner was arrested on numerous occasions, resulting in either convictions or deferred adjudications upon successful completion of probationary supervision. These arrests pertained to driving while impaired, domestic violence, kidnapping, and assault inflicting serious injury.

The Director denied the U petition in February 2022, concluding that the Petitioner was inadmissible based upon the underlying denial of his waiver application. In denying the Petitioner's waiver application, the Director determined that the Petitioner was inadmissible under sections 212(a)(2)(A)(i)(I) (convicted of, or admits having committed, a crime involving moral turpitude (CIMT)), 212(a)(6)(A)(i) (present in the United States without being admitted or paroled), 212(a)(9)(A)(i) (ordered removed and again seeks admission within 5 years of the date of removal or departure), 212(a)(9)(A)(ii) (ordered removed and again seeks admission within 10 years of the date of removal or departure), 212(a)(9)(B)(i)(II) (non-legal permanent resident present in the United States for one year or more and seeks admission within 10 years of the date of departure or removal), (212)(a)(9)(C)(i)(I) (unlawful presence in the United States for one year or more), and (212)(a)(9)(C)(i)(II) (ordered removed and enters without being admitted) of the Act.¹ The Director concluded that a favorable exercise of discretion was not warranted.

On appeal, the Petitioner disputes the Director's discretionary determination, contending that in adjudicating his underlying waiver application, the Director did not properly consider the factors mitigating his criminal record. However, our review on appeal is limited to whether the Petitioner is inadmissible to the United States and, if so, on what grounds. We do not have jurisdiction to review the Director's discretionary denial. The Petitioner does not contest the stated grounds of inadmissibility and has not presented any arguments or evidence that the Director erred in finding him inadmissible to the United States. He therefore has not established that he is admissible to the United States or that the applicable grounds of inadmissibility have been waived. Accordingly, he is ineligible for nonimmigrant classification under section 101(a)(15)(U)(i) of the Act.

ORDER: The appeal is dismissed.

¹ USCIS records reflect that the Petitioner first entered the United States as an unaccompanied minor without admission or inspection in January 2002, and that he requested and was granted voluntary departure at that time. Government records further reflect that in [] 2016, the Petitioner was ordered removed under section 212(a)(6)(A)(i) of the Act.