



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

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

In Re: 23752830

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). The Director of the Vermont Service Center denied the Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that the Petitioner did not establish his admissibility, as required. The Director concurrently denied the Petitioner’s Form I-192, Application for Advance Permission to Enter as Nonimmigrant (waiver application), as a matter of discretion. The Petitioner filed an appeal of the Director’s decision denying his U petition with our office.

In these proceedings, it is the Petitioner’s burden to establish eligibility for the requested benefit. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). The Administrative Appeals Office 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.

When adjudicating a U petition, U.S. Citizenship and Immigration Services determines whether a petitioner is inadmissible 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). U petitioners bear 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, an inadmissible U petitioner must file a 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 of the waiver application, we may consider in our review of the U petition denial whether the Director’s underlying determination of inadmissibility was correct.

In denying the U petition, the Director concluded that the Petitioner was inadmissible based upon the underlying denial of his waiver application. The Director noted that the Petitioner was inadmissible under sections 212(a)(2)(C)(i) (suspected controlled substance trafficker) and 212(a)(2)(A)(i)(II) (controlled substance conviction) of the Act. On appeal, the Petitioner does not contest his inadmissibility under these sections or otherwise argue that the Director erred in finding him inadmissible to the United States. Instead, the Petitioner contends that the Director erred in denying the U petition and waiver application because due consideration was not given to his efforts toward rehabilitation, the underlying details of his arrest and prosecution for a controlled substance violation,

and his role as a caretaker for his daughter. The Petitioner also points out the strong ties his family has forged in the United States and positive community impact. He notes the risk of harm were the family to return to the political instability of Nicaragua. The Petitioner argues that, due to these factors, he merits a favorable exercise of discretion notwithstanding the grounds of inadmissibility. The Petitioner asks us to reverse the prior denials or, alternatively, to remand to the Director for further consideration.

As noted above, our review on appeal is limited to whether the Petitioner is in fact inadmissible to the United States, as determined by the Director, and consequently ineligible for U nonimmigrant status. We do not have the authority to review the Director's discretionary determination of whether to grant a waiver application. 8 C.F.R. § 212.17(b)(3). The Petitioner does not contest the stated grounds of inadmissibility due to a controlled substance conviction and for being a suspected controlled substance trafficker, under sections 212(a)(2)(C)(i) and 212(a)(2)(A)(i)(II) of the Act. In addition, the Petitioner does not otherwise assert that the Director erred in finding him inadmissible to the United States on these grounds. Therefore, we must dismiss the appeal.

ORDER: The appeal is dismissed.