



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

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

In Re: 20083401

Date: FEB. 3, 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 Petitioner's Form I-918, Petition for U Nonimmigrant Status (U petition), and affirmed the decision in response to a motion to reconsider. The matter is now before us on appeal. The Director concurrently denied the Petitioner's Form I-192, Application for Advance Permission to Enter as Nonimmigrant (waiver application), and affirmed the decision in response to a motion to reconsider. On appeal, the Petitioner submits a brief and evidence asserting her eligibility for U-1 nonimmigrant classification. 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.

I. LAW

U.S. Citizenship and Immigration Services 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 he is 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 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 waiver denial, we may consider whether the Director's underlying determination of inadmissibility was correct.

II. ANALYSIS

The Petitioner, a native and citizen of Mexico, last entered the United States without inspection in March 1993. She was arrested in [REDACTED] 1996 for transportation/sale of a controlled substance under California Health and Safety Code § 11352(a). She filed her U petition and waiver application on March 3, 2015, and the Director denied both on July 1, 2019. In denying the waiver application, the

Director determined that the Petitioner is inadmissible to the United States and did not establish that she merits a favorable exercise of discretion to waive her inadmissibility. In denying the U petition, the Director concluded that the Petitioner is inadmissible to the United States and therefore ineligible for U nonimmigrant status. Specifically, the Director found the Petitioner inadmissible under sections 212(a)(2)(C)(i) (suspected or convicted controlled substance trafficker) and 212(a)(6)(A)(i) (present in the United States without admission or parole) of the Act. On June 21, 2021, the Director granted the Petitioner's motions to reconsider her U petition and waiver application, and the Director affirmed both decisions.

On appeal, the Petitioner details her immigration history, the abusive marriage she was in, her favorable discretionary factors, and the underlying details of her criminal history. She then asserts that the Director's denial of her U petition was arbitrary and capricious as her misconduct was unfairly and heavily weighed over her favorable discretionary factors, and the Director erred by not considering the totality of the circumstances of her favorable factors. Furthermore, the Petitioner asserts that while she was arrested as a juvenile for conspiracy and transportation/sale of a controlled substance, the arrest does not render her ineligible for U nonimmigrant status. She asserts that her abusive ex-spouse placed narcotics in her pocket without her knowledge and consent, she was in a cycle of violence that rendered her captive to his controlling behavior, and she was not convicted of the offense.

As previously indicated, our appellate review is limited to whether the Director's inadmissibility determinations were correct; we do not have the authority to review the Director's discretionary determination. Even if we were to analyze the applicability of the section 212(a)(2)(C)(i) ground of inadmissibility, which the Petitioner appears to be disputing, she does not dispute the remaining ground of inadmissibility deemed applicable by the Director. Accordingly, the Petitioner has not established that she is admissible to the United States or that the applicable grounds of inadmissibility have been waived. Accordingly, she is ineligible for nonimmigrant classification under section 101(a)(15)(U)(i) of the Act.

ORDER: The appeal is dismissed.