



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

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

In Re: 19697389

Date: FEB. 10, 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 Petitioner’s Form I-192, Application for Advance Permission to Enter as Nonimmigrant (waiver application). The Director concurrently denied the Petitioner’s Form I-918, Petition for U Nonimmigrant Status (U petition) based on the denial of the waiver application, and dismissed her subsequent motion to reopen and reconsider. The Petitioner filed an appeal of the Director’s decision denying her U petition with our office. On appeal, the Petitioner submits a brief. 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 (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 she 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 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.

## II. ANALYSIS

The Petitioner, who is currently 37 years old, acknowledged first entering the United States without inspection, authorization, or parole when she was 16 years old. The record reflects that she was subsequently removed from the United States in 2010, expeditiously removed to Mexico the same year when she attempted to reenter the United States, and then apprehended by immigration officials when she attempted to reenter the United States in 2013. The record further reflects that the Petitioner was arrested on several occasions, resulting in convictions pertaining to shoplifting, pandering, and illegal reentry after deportation.

The Director denied the U petition in May 2019, concluding that the Petitioner did not establish her admissibility. The Director concurrently denied the waiver application, finding that the Petitioner was inadmissible under sections 212(a)(2)(A)(i)(I) (convicted of, or admits having committed, a crime involving moral turpitude), 212(a)(2)(D)(i) (prostitution within 10 years), 212(a)(6)(A)(i) (present in the United States without being admitted or paroled), 212(a)(9)(A)(i) and (ii) (ordered removed and again seeks admission within 10 years of the date of removal or departure), 212(a)(9)(B)(i)(II) (unlawfully present in the United States one year or more), and 212(a)(9)(C)(i)(I) and (II) (unlawfully present for one year and enters or attempts to enter without being admitted, and ordered removed and enters without being admitted) of the Act, and concluding that a favorable exercise of discretion was not warranted. The Director dismissed her subsequent motion to reopen and reconsider in June 2021.

On appeal, the Petitioner argues that the Director failed to consider the mitigating circumstances surrounding her criminal offenses, and erred in determining that she was convicted of shoplifting in 2004 because the charge was dismissed after she returned the stolen merchandise. The Petitioner additionally disputes the Director's discretionary determination, and asserts that the submitted evidence demonstrates she merits a favorable exercise of discretion. Although we acknowledge these arguments, as previously indicated, our appellate review is limited to whether the Director's inadmissibility determination was correct; we do not have the authority to review the Director's discretionary determination. Even if we were to analyze whether the Director correctly determined that one of the two shoplifting charges against the Petitioner should be considered a conviction, the Petitioner does not dispute the remaining grounds of inadmissibility determined to be 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.

## III. CONCLUSION

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.