



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

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

In Re: 20531580

Date: FEB. 22, 2022

Appeal of Nebraska Service Center Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks “U-1” nonimmigrant classification as a victim of qualifying criminal activity at 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 Nebraska Service Center denied the Petitioner’s Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that he did not establish his admissibility, as required. The Director likewise denied the Petitioner’s corresponding Form I-192, Application for Advance Permission to Enter as Nonimmigrant (waiver application), finding that a favorable exercise of discretion was not warranted. The denial of the Petitioner’s U petition is now before us on appeal. 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 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, by a preponderance of the evidence, 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); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). 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 denial, we may consider whether the Director’s underlying determination of inadmissibility was correct.

II. ANALYSIS

The Petitioner acknowledges entering the United States for the first time without inspection, authorization, or parole in 1971, and then last entering the country illegally in 1997 following his removal in 1996 pursuant to a formal order issued by an Immigration Judge. The record further reflects

that the Petitioner was arrested on numerous occasions, resulting in either convictions or deferred adjudications upon successful completion of probationary supervision. His convictions or deferred adjudications pertain to possession of a controlled substance (cocaine) on three separate occasions, and spousal abuse committed against his wife on three occasions including assault with a deadly weapon (knife). The Petitioner was sentenced to 2 years' incarceration as a result of the controlled substance possession convictions and a related probationary violation.

In denying the U petition, the Director concluded that the Petitioner was inadmissible based upon the underlying denial of his waiver application. The Director denied the waiver application finding that the Petitioner was inadmissible under sections 212(a)(2)(A)(i)(I) (crime involving moral turpitude), 212(a)(2)(A)(i)(II) (violation of any law relating to a controlled substance), 212(a)(6)(A)(i) (present in the United States without being admitted or paroled), 212(a)(7)(B)(i)(I) (nonimmigrant not in possession of a valid passport), 212(a)(9)(A)(ii) (previously removed foreign national), and 212(a)(9)(C)(i)(II) (previously ordered removed and entered or attempted to enter without being admitted) of the Act and that the positive and mitigating equities present in his case did not outweigh the adverse factors such that he warranted a waiver of the applicable grounds as a matter of discretion.

On appeal, the Petitioner asserts, through counsel, that he merits an approval of his waiver application notwithstanding his past criminal offenses and convictions. However, he does not contest any of the grounds of inadmissibility determined to be applicable by the Director or otherwise argue that the Director erred in finding him inadmissible to the United States. As stated above, our review on appeal is limited to whether the Petitioner is in fact inadmissible to the United States and, if so, on what grounds. We do not have the authority to review the Director's discretionary determination. As 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, we must dismiss the appeal.

III. CONCLUSION

The Petitioner 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.