



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 29357823

Date: DEC. 19, 2023

Appeal of Vermont Service Center Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks U 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-918, Petition for U Nonimmigrant Status (U petition), concluding that he did not establish his admissibility. The Director likewise denied his corresponding Form I-192, Application for Advance Permission to Enter as Nonimmigrant (waiver application), as a matter of discretion. The denial of the Petitioner's U petition is now before us on appeal. 8 C.F.R. § 103.3. 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.

To establish eligibility for U nonimmigrant classification, petitioners must establish 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 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). U.S. Citizenship and Immigration Services (USCIS) 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). The denial of a waiver 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.

The Director determined that the Petitioner was inadmissible under the following sections of the Act:

- 212(a)(2)(A)(i)(I) Conviction or commission of a crime involving moral turpitude
- 212(a)(2)(A)(i)(II) Controlled substance conviction
- 212(a)(2)(C)(i) Suspected or convicted controlled substance trafficker.

The Director further determined that the Petitioner did not warrant a waiver of the applicable inadmissibility grounds as a matter of discretion.

On appeal, the Petitioner does not contest the Director's determination of inadmissibility. 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 on his waiver application. As the Petitioner does not contest the stated grounds of inadmissibility, he has not presented any arguments or evidence that the Director erred in finding him inadmissible to the United States, and his admissibility has not been waived, he has not overcome the grounds for the Director's dismissal.

Relying on *L.D.G. v. Holder*, 744 F.3d 1022 (7th Cir. 2014), the Petitioner argues that USCIS is legally required to adjudicate the merits of the U visa petition, including analyzing whether the Petitioner was the victim of a qualifying crime, notwithstanding the Petitioner's inadmissibility.¹ We note that the Seventh Circuit's decision in *L.D.G.* discusses only the U.S. Department of Justice's concurrent jurisdiction to adjudicate a waiver of inadmissibility but does not make any ruling with respect to USCIS having any purported requirement to adjudicate the merits of a U visa petition notwithstanding the Petitioner's inadmissibility. While we acknowledge that the Petitioner's applications for a U visa and for a Form I-192 waiver of inadmissibility are different applications for relief, the Petitioner cites no authority requiring us to make findings on each eligibility criterion for U status when a Petitioner has not established eligibility for that status due to inadmissibility. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); see also *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible). Here, the Petitioner is not eligible for the U visa, because they are inadmissible.

The record does not show that an Immigration Judge has waived the Petitioner's inadmissibilities. We note that the Petitioner is without prejudice to file a subsequent Form I-918 noting any waiver of inadmissibility that may be granted by an Immigration Judge in the future.

The Petitioner has not established that he is admissible to the United States or that the applicable grounds of inadmissibility have been waived. Accordingly, the Director properly adjudicated the Form I-918 petition for U status by denying it on the grounds that the Petitioner's inadmissibility makes him ineligible for U nonimmigrant classification.

ORDER: The appeal is dismissed.

¹ *L.D.G.* was explicitly overruled nationwide by the Board of Immigration Appeals in *Matter of Khan*, 26 I. & N. Dec. 797, 805 (BIA 2016). However, the Seventh Circuit later rejected *Matter of Khan* in *Meridor v. U.S. Att'y Gen.*, 891 F.3d 1302, 1307 (11th Cir. 2018), finding that Immigration Judges have jurisdiction to grant waivers of inadmissibility to persons with approved U visas.