



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

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

In Re: 21903684

Date: APR. 13, 2022

Appeal of Vermont 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 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 and his corresponding Form I-192, Application for Advance Permission to Enter as Nonimmigrant (waiver application), to waive his inadmissibility, had been denied as a matter of discretion. The denial of the Petitioner’s U petition is now before us on appeal. On appeal, the Petitioner submits a brief and additional evidence and contends that he is eligible for the classification sought.

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 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). 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 first entered the United States without inspection or parole in 1987. In 2006, following his 2004 arrest related to the unlawful use of a weapon, the Petitioner was placed in removal proceedings and voluntarily departed the United States. The Petitioner acknowledges that about a year

after his voluntary departure he returned to the United States unlawfully. In 2011, the Petitioner was issued a final administrative removal order following his conviction for possession of marijuana with intent to distribute. According to his personal statement, the Petitioner last entered the United States in unlawful status in 2012.

As noted, the record reflects that the Petitioner was arrested on several occasions, resulting in either convictions or deferred adjudications upon successful completion of probationary supervision. His convictions or deferred adjudications pertain to providing false information to a police officer, to unlawful use of a weapon and a violation of probation stemming from this deferred adjudication, and to the possession of marijuana with intent to distribute.

#### A. Inadmissibility

In denying the U petition, the Director determined that the Petitioner was inadmissible under sections 212(a)(2)(A)(i)(I) (conviction or commission of a crime involving moral turpitude), 212(a)(2)(A)(i)(II) (controlled substance violation), 212(a)(2)(C)(i) (known or suspected illicit trafficker in any controlled substance), 212(a)(6)(A)(i) (present in the United States without being admitted or paroled), 212(a)(9)(A)(ii) (previously removed noncitizens other than arriving noncitizens), 212(a)(9)(B)(i)(I) (unlawfully present for period more than 180 days and less than one year), 212(a)(9)(B)(i)(II) (unlawfully present for one year or more), and 212(a)(9)(C)(i)(II) (previously ordered removed and entered or attempted to enter without being admitted). The Director further noted that the Petitioner's waiver application had been denied and therefore determined that the Petitioner had not established his admissibility or that the applicable grounds of inadmissibility had been waived, as required to establish eligibility for U nonimmigrant status.

On appeal, the Petitioner contends that the Director did not comply with the regulations at 8 C.F.R. §103.3(a)(1)(i) requiring that USCIS provide the specific reasons for denying an application or petition, because the Director provided no discussion of the reasons underlying the denial of his waiver application. As a result, the Petitioner asserts that he was not able to sufficiently address these reasons in the instant appeal. We do not find this argument persuasive. As stated, we review whether the underlying inadmissibility determination by the Director is correct in these U petition proceedings, and if correct, whether the applicable inadmissibility grounds have been waived. Here, although we acknowledge that USCIS records reflect that the Director did not issue the denial of his waiver application concurrently with the denial of the instant U petition, the Director's U petition decision properly notified the Petitioner of the applicable grounds of inadmissibility against him for which he required an approved waiver application. On appeal, the Petitioner does not contest, and our review of the record supports, the Director's determination of inadmissibility.<sup>1</sup> Moreover, the Director ultimately issued the denial of the Petitioner's waiver application over a year ago, during the pendency of the instant appeal, providing the Petitioner with a detailed analysis of and the reasons for which his waiver application was denied. USCIS records indicate that the Petitioner has not filed a motion to

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<sup>1</sup> The record contains court documentation demonstrating that the Petitioner was convicted of possession of marijuana with intent to deliver, in support of the Director's conclusion that the Petitioner is inadmissible under section 212(a)(2)(A)(i)(II) (controlled substance violation) of the Act. We therefore will not reach the remainder of the inadmissibility grounds identified by the Director. 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").

reopen or reconsider the Director's denial of his waiver application. Further, the Petitioner has not offered a supplemental brief or evidence contesting the stated grounds of inadmissibility or presented arguments or documentation showing that the Director erred in finding him inadmissible after his receipt of the Director's decision on his waiver application.

However, the Petitioner asserts that he merits approval of his waiver application. 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 and 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.

### 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.