



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

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

In Re: 20133815

Date: February 2, 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 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, as required. The Director concurrently denied the Petitioner’s Form I-192, Application for Advance Permission to Enter as Nonimmigrant (waiver application), finding that a favorable exercise of discretion was not warranted. The Petitioner subsequently filed an appeal of the denial of his U petition with our office and a motion to reopen and reconsider the denial of his waiver application with the Director.¹

We exercise *de novo* review of all issues of fact, law, policy, and discretion. *See Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). 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 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. Petitioners bear the burden of proof to demonstrate their eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

¹ The Director has not issued a decision on the Petitioner’s motion to reopen and reconsider the denial of his waiver application.

II. ANALYSIS

The Petitioner, a native and citizen of Mexico, filed the instant U petition in July 2015 as a victim of felonious assault. The Director denied the petition, determining that the Petitioner was inadmissible under sections 212(a)(6)(A)(i) (present in the United States without being admitted or paroled) and 212(a)(7)(B)(i)(I) (nonimmigrant not in possession of a valid passport) of the Act, and that his waiver application seeking to waive the grounds of inadmissibility had been denied as a matter of discretion.

On appeal, the Petitioner argues that he warrants a favorable exercise of discretion to grant his waiver application and asks that we suspend adjudication of the U petition until the adjudication of his concurrently filed motion to reopen to reopen and reconsider. 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. Furthermore, there is no relevant authority requiring us to hold the U petition in abeyance pending adjudication of the Petitioner's motion to reopen and reconsider. 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.