



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

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

In Re: 20916046

Date: MAR. 18, 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 Form I-918, Petition for U Nonimmigrant Status (U petition). The matter is now before us on appeal. On appeal, the Petitioner asserts his eligibility for U nonimmigrant status and submits additional evidence. We review the questions in this matter *de novo*. See *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 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 where the record establishes the petitioner’s inadmissibility, 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

In denying the U petition, the Director concluded that the Petitioner was inadmissible, and the grounds of inadmissibility had not been waived as his waiver application had been denied. Specifically, the Director determined that the Petitioner was inadmissible under sections 212(a)(6)(A)(i) (present in the United States without being admitted or paroled), 212(a)(6)(C)(ii) (false claim to U.S. citizenship), 212(a)(6)(E)(i) (smuggling), 212(a)(9)(A)(i) (previously removed as an arriving noncitizen), 212(a)(9)(A)(ii) (previously removed other than as an arriving noncitizen) of the Act.

On appeal, the Petitioner submits a brief and evidence to support his contention that he merits an approval of his waiver application based on the positive discretionary factors in his case. The Petitioner specifically concedes that he is inadmissible under sections 212(a)(6)(E)(i), 212(a)(9)(A)(i), and 212(a)(9)(C)(i)(I) of the Act. However, the Petitioner does not contest, and the record does not disclose any error in, the Director's findings of his inadmissibility. Although the Petitioner filed the requisite application to waive his inadmissibility, the Director denied the application. We acknowledge the Petitioner's assertions on appeal that his waiver application merits a favorable exercise of discretion. However, as stated above, our review on appeal is limited to whether the Petitioner is in fact inadmissible to the United States, and we do not have the authority to review the Director's discretionary denial of the waiver application. 8 C.F.R. § 212.17(b)(3).

### 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.