



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

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

In Re: 20915816

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

The Petitioner acknowledged that he entered the United States without inspection in 2003 and was placed in removal proceedings in 2014. The record further reflects that the Petitioner has several arrests, some of which resulted in convictions.

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) and 212(a)(9)(C)(i)(I) of the Act (for reentering the United States without admission or parole after accruing one year or more of unlawful presence).

On appeal, the Petitioner submits a brief and additional evidence in support of his assertion that he merits an approval of his waiver application based on the positive discretionary factors in his case. However, we do not reach this issue here, as the Petitioner does not contest, and the record does not disclose any error in, the Director's findings of his inadmissibility on the three other grounds identified. Although the Petitioner filed the requisite waiver 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.