



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

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

In Re: 24786033

Date: JAN. 13, 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, concluding that he did not establish his admissibility and his corresponding Form I-192, Application for Advance Permission to Enter as Nonimmigrant, to waive his inadmissibility had been denied as a matter of discretion. The matter is now before us on appeal. 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 the Form I-192 in conjunction with the Form I-918, requesting waiver of any grounds of inadmissibility. 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv). U.S. Citizenship and Immigration Services 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 section 212(a)(9)(B)(i)(II) as an alien who has been unlawfully present in the United States for one year or more and who again seeks admission within 10 years of the date of their departure or removal from the United States. The Petitioner had sought a waiver of this ground of inadmissibility through the filing of a Form I-192. The Director denied the waiver request, however, as a matter of discretion. Noting that that the Petitioner's Form I-192 had been denied, the Director then determined that the Petitioner had not established his admissibility, or that the applicable grounds of inadmissibility had been waived, and denied his Form I-918.

On appeal, the Petitioner does not contest the Director's determination of inadmissibility, but instead asserts that he merits a favorable exercise of discretion to waive the ground and asks us to grant his waiver. 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 ground of inadmissibility, 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.

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 U nonimmigrant classification.

ORDER: The appeal is dismissed.