



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

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

In Re: 27101412

Date: JUNE 1, 2023

Appeal of Nebraska 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 Nebraska Service Center (Director) denied the Form I-918, Petition for U Nonimmigrant Status (U petition). The matter is now before us on appeal.¹ The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review 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.

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.

In denying the U petition, the Director concluded that the Petitioner was inadmissible based upon the underlying denial of his Form I-192, Application for Advance Permission to Enter as a Nonimmigrant (waiver application). The Director denied the waiver application finding that the Petitioner was inadmissible under 212(a)(6)(A)(i) of the Act (present in the United States without being admitted or paroled), and that the positive and mitigating equities present in his case did not outweigh the adverse factors such that he warranted a waiver of the applicable grounds as a matter of discretion. On appeal, the Petitioner asserts, through counsel, that he merits an approval of his waiver application.

¹ We note that in the brief accompanying the Form I-290B, Notice of Appeal (Form I-290B), counsel indicated that the Petitioner was filing a “motion to reconsider” the Applicant’s “I-192 application.” However, Part 2 of the Form I-290B indicated that the Petitioner “was filing an appeal to the AAO” and referenced “I-918” and the corresponding receipt number for the Form I-918 application.

The denial of the Form I-192 waiver application is not appealable. 8 C.F.R. § 212.17(b)(3). Moreover, as detailed above, we do not have the authority to review the Director's discretionary determination. As the Petitioner does not contest the stated ground 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.

ORDER: The appeal is dismissed.