



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

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

In Re: 25529626

Date: MAR. 8, 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 (Director) denied the Petitioner's Form I-918, Petition for U Nonimmigrant Status (Form I-918), concluding that he did not establish his admissibility because his corresponding Form I-192, Application for Advance Permission to Enter as Nonimmigrant (Form I-192), to waive his inadmissibility had been denied as a matter of discretion. The matter is now before us on appeal. 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.

To establish eligibility for U nonimmigrant classification, petitioners must show 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 the following sections of the Act: 212(a)(6)(A)(i) - Alien Present without Admission or Parole; 212(a)(9)(A)(i)(II) - Alien Previously Removed; and 212(a)(9)(C)(i)(II) - Alien Previously Removed and Entered or Attempted to Enter without Admission or Parole.¹ The Petitioner sought a waiver of these grounds of inadmissibility through the filing of a Form I-192. In August 2022, the Director denied the waiver request as a matter

¹ The Director additionally noted that the Petitioner *may* be inadmissible under section 212(a)(9)(C)(i)(I) - Alien Unlawfully Present One Year or More and Entered or Attempted to Enter without Admission or Parole but could not conclusively determine the Petitioner's inadmissibility because although the Petitioner submitted a statement addressing his exits and entries in 1999 and 2011, there was evidence in the record indicating that the Petitioner made additional entries.

of discretion. Noting 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 thus denied his Form I-918 in August 2022.

On appeal, the Petitioner objects to the Director's characterization that he was misleading as to his inadmissibility under section 212(a)(9)(C)(i)(I) - Alien Unlawfully Present One Year or More and Entered or Attempted to Enter without Admission or Parole, because he contends that he conceded he was inadmissible under that ground in a February 2022 cover letter submitted in response to a request for evidence. He also argues that he is not inadmissible for having committed a crime involving moral turpitude.² Although we acknowledge these arguments, they are ultimately unavailing because the Petitioner does not contest the Director's determination of inadmissibility under the aforementioned grounds, and he concedes that he is additionally inadmissible under section 212(a)(9)(C)(i)(I). 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. Because the Petitioner does not contest he is inadmissible under sections 212(a)(6)(A)(i), 212(a)(9)(A)(i)(II), 212(a)(9)(C)(i)(I), and 212(a)(9)(C)(i)(II), or otherwise assert that the Director erred in finding him inadmissible to the United States on these grounds, we must dismiss the appeal.

ORDER: The appeal is dismissed.

² The Petitioner was convicted of Public Lewdness in Texas in [] 2017. We need not determine that this conviction constitutes a crime involving moral turpitude.