



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

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

In Re: 24545923

Date: JAN. 19, 2023

Appeal of Nebraska 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 Nebraska Service Center denied the Petitioner's Form I-918, Petition for U Nonimmigrant Status, concluding that she did not establish her admissibility and her corresponding Form I-192, Application for Advance Permission to Enter as Nonimmigrant, to waive her 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 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 sections 212(a)(6)(C)(i) for fraud or willfully misrepresenting a material fact, 212(a)(7)(B)(i)(I) as a nonimmigrant who is not in possession of a valid passport, 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, and 212(a)(9)(C)(i)(I) of the Act as an alien unlawfully present in the United States for an aggregate period of more than one year who subsequently entered the United States without being admitted. The Petitioner had sought a waiver of these grounds 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 her admissibility, or that the applicable grounds of inadmissibility had been waived, and denied her Form I-918.

On appeal, the Petitioner claims, in part, that the Director's conclusion that she was inadmissible under section 212(a)(9)(C)(i)(I) of the Act was incorrect because she last entered the United States lawfully which does not result in inadmissibility. The Petitioner also claims that section 212(a)(9)(B)(i)(II) of the Act is inapplicable to her because she has never departed the United States.

While the Petitioner contests the applicability of the grounds of inadmissibility under sections 212(a)(9)(C)(i)(I) and 212(a)(9)(B)(i)(II) of the Act, she does not contest the Director's determination of inadmissibility based on sections 212(a)(6)(C)(i) or 212(a)(7)(B)(i)(I) of the Act. 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. As the Petitioner does not contest all of the grounds of inadmissibility identified by the Director, has not presented any arguments or evidence that the Director erred in finding her inadmissible to the United States based on any uncontested grounds, and her inadmissibility has not been waived, she has not overcome the grounds for the Director's dismissal.

The Petitioner has not established that she is admissible to the United States or that the applicable grounds of inadmissibility have been waived. Accordingly, she is ineligible for U nonimmigrant classification.

ORDER: The appeal is dismissed.