



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

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

In Re: 28842450

Date: NOV. 2, 2023

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 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 Vermont Service Center denied the Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that the Petitioner did not establish eligibility for the benefit sought. The Director likewise denied the Petitioner’s corresponding Form I-192, Application for Advance Permission to Enter as Nonimmigrant (waiver application), concluding that the positive and mitigating equities present in the Petitioner’s case did not outweigh the adverse factors such that she warranted a waiver of the applicable grounds as a matter of discretion.

The denial of the Petitioner’s U petition is now before us on appeal. On appeal, the Petitioner submits a brief and additional documentation and asserts that she is eligible for the benefit sought. 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 the decision to deny the U petition, the Director noted that the Petitioner was inadmissible under multiple sections of the Act: 212(a)(6)(A)(i) (present in the United States without being admitted or paroled), 212(a)(2)(A)(i)(I) (conviction of a crime involving moral turpitude), 212(a)(6)(C)(i) (fraud or willful misrepresentation), 212(a)(9)(A)(ii) (previously removed), 212(a)(9)(B)(i)(II) (unlawful presence of more than one year), and 212(a)(9)(C)(i)(II) (previously ordered removed and entered or attempted to enter without being admitted). The Director concluded that because the Petitioner was

inadmissible based upon the underlying denial of her waiver application, she had not demonstrated eligibility for U nonimmigrant status.

On appeal, the Petitioner does not contest the Director's findings of inadmissibility as detailed above. Rather, she maintains that her three theft convictions "should not have been considered crimes involving moral turpitude, thus outweighing favorable discretion."<sup>1</sup> She also maintains that the Director's decision restated "several facts of [the Petitioner's] prior criminal cases which is prejudicial in the balancing against favorable discretion." She concludes that the record "supports a finding that discretion should be exercised" in her favor.

As the Petitioner has not presented any supporting documentation that establishes that the Director erred in finding her inadmissible to the United States, and we do not have jurisdiction to review the discretionary denial of the waiver, we must dismiss the appeal.

**ORDER:** The appeal is dismissed.

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<sup>1</sup> Notwithstanding this assertion, the Petitioner concedes that she is inadmissible to the United States for having been convicted of a crime involving moral turpitude based on her conviction for identify theft.