



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

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

In Re: 28895815

Date: NOV. 7, 2023

Appeal of Vermont Service Center Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks “U-3” nonimmigrant classification as a qualifying family member of 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 he 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 asks that we suspend adjudication of the U petition until the adjudication of his concurrently filed motion to reopen the waiver application. 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 under section 212(a)(6)(A)(i) (present in the United States without being admitted or paroled) of the Act, and his waiver application seeking to waive the grounds of inadmissibility had been denied as a matter of discretion.

As detailed above, on appeal the Petitioner asks that we “keep this appeal pending” until the adjudication of his concurrently filed motion to reopen the waiver application. There is no relevant authority requiring us to hold the U petition in abeyance pending adjudication of the Petitioner’s motion to reopen.

The Petitioner has not established on appeal that he is admissible to the United States or that the applicable grounds of inadmissibility have been waived. Accordingly, he is ineligible for nonimmigrant classification under section 101(a)(15)(U)(i) of the Act.

ORDER: The appeal is dismissed.