



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

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

In Re: 29462831

Date: NOV. 29, 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 denied the petition, concluding that the record did not establish his admissibility, as required. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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 (USCIS) 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.

The Petitioner acknowledges entering the United States without inspection, authorization, or parole in 1999. The record further reflects that the Petitioner was arrested on several occasions, resulting in multiple convictions. His arrests and convictions pertain to possession of marijuana, simple robbery, theft, driving under the influence of alcohol, and traffic infractions.

In denying the U petition, the Director concluded that the Petitioner was inadmissible based upon the underlying denial of his waiver application. The Director denied the waiver application concluding 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 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 notwithstanding his convictions. Following the filing of his appeal, the Petitioner's counsel submitted a brief stating that the brief is "in regard to the pending appeal of the denial of Form I-192." However, we note that the Form I-290B, Notice of Appeal or Motion, indicates that it was being filed in reference to the denial of the Petitioner's U petition, and not the waiver application.<sup>1</sup> The Petitioner's counsel continued that "the following letter may most closely be interpreted as a motion to reopen and reconsider [the Petitioner's] waiver application." The Form I-290B was completed and submitted as an appeal of the denial of the U petition, and we have considered it as such.

In our review of the brief submitted by the Petitioner, he does not contest the ground of inadmissibility determined to be applicable by the Director or otherwise argue that the Director erred in finding him inadmissible to the United States. 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. We do not have the authority to review the Director's discretionary determination. As the Petitioner does not contest the stated grounds 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.

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<sup>1</sup> On Page 2, Part 2, number 1.b on the Form I-290B, the box is marked as "I am filing an appeal to the AAO. I will submit my brief and/or additional evidence to the AAO within 30 calendar days of filing the appeal. Further, Part 2, number 2 indicates the "USCIS Form for the Application or Petition That is the Subject of This Appeal or Motion" and states "I-918," and the subsequent number 3 indicates the USCIS receipt number for the Petitioner's underlying U petition.