



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

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

In Re: 7141746

Date: JULY 30, 2020

Appeal of Nebraska Service Center Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks “U-1” 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 Form I-918, Petition for U Nonimmigrant Status (U petition), because the record established that the Petitioner was inadmissible to the United States and her Form I-192, Application for Advance Permission to Enter as Nonimmigrant (waiver application), requesting a waiver of the grounds of inadmissibility, had been denied. On appeal, the Petitioner submits a brief and previously submitted evidence, asserting her eligibility. We review the questions in this matter *de novo*. See *Matter of Christo’s Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

U.S. Citizenship and Immigration Services (USCIS) is required to determine whether any grounds of inadmissibility exist when adjudicating a U petition and may 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 U petitioners bear the burden of establishing that they are admissible to the United States or that any grounds of inadmissibility have been waived. 8 C.F.R. § 214.1(a)(3)(i). To meet this burden where the record establishes inadmissibility, petitioners must file a waiver application in conjunction with the U petition, requesting a waiver of the grounds of inadmissibility. 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv). The denial of such a waiver application may not be appealed. 8 C.F.R. § 212.17(b)(3). Although, we do not have jurisdiction to review the Director’s discretionary denial of a waiver application, we may consider whether the Director’s underlying determination of inadmissibility was correct.

**II. ANALYSIS**

The Petitioner, a native and citizen of Mexico, claims to have last entered the United States without admission or parole in March 2006. She filed this U petition in October 2014 based on her minor child having been a victim of a qualifying criminal activity. During the pendency of her petition, the record indicates, and the Petitioner acknowledges, that she was detained following a traffic stop in [REDACTED] 2017 and an arrest warrant was later issued for her on charges that included possession of narcotic drugs (heroin) for sale and for transport. The Director concluded that the Petitioner was inadmissible under sections 212(a)(6)(A)(i) (present in the United States without admission or parole) and

212(a)(2)(C)(i)(I) (controlled substances trafficking) of the Act. As the Petitioner's waiver application seeking a waiver of inadmissibility had been denied, the Director determined that the Petitioner had not established her eligibility for U nonimmigrant classification and denied her U petition.

On appeal, the Petitioner asserts that the Congressional intent behind the implementation of the U nonimmigrant provisions to protect victims such as herself compels USCIS to approve her waiver application in a favorable exercise of discretion. She maintains that she is not a violent drug trafficker or a threat to public safety and national security and that it is in the public interest to grant her waiver application.

Upon review, the Petitioner has not overcome the Director's decision. On appeal, the Petitioner does not contest, and our review of the record demonstrates, that she is inadmissible on the grounds identified by the Director.<sup>1</sup> She therefore requires a waiver of inadmissibility to establish eligibility for U nonimmigrant classification. 8 C.F.R §§ 212.17, 214.14(c)(2)(iv). Although the Petitioner filed the requisite waiver application, the Director denied the application and we have no appellate jurisdiction over the Director's discretionary denial of that application. 8 C.F.R. § 212.17(b)(3).

### III. CONCLUSION

The record on appeal does not overcome the Director's determination of the Petitioner's inadmissibility, and her application for a waiver of inadmissibility was denied. As we have no appellate jurisdiction over the Director's discretionary denial, the record does not establish the Petitioner's eligibility for nonimmigrant classification under section 101(a)(15)(U) of the Act.

**ORDER:** The appeal is dismissed.

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<sup>1</sup> The record also indicates that the Petitioner is inadmissible under section 212(a)(7)(B)(i)(I) of the Act (nonimmigrant not in possession of valid passport). The copy of the Petitioner's passport in the record is expired and there is no evidence that she possesses a valid passport.