



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

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

In Re: 8868707

Date: SEPT. 2, 2020

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 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), concluding that the Petitioner did not demonstrate his admissibility. The Petitioner filed an appeal from that decision.

In these proceedings, it is the Petitioner’s burden to establish eligibility for the requested benefit. Upon de novo review, we will dismiss the appeal.

I. LAW

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.

II. ANALYSIS

A full review of the record, including the evidence submitted on appeal, does not establish the Petitioner’s eligibility. The appeal will be dismissed for the following reasons.

The Petitioner is a citizen of Mexico who claims to have entered the United States without admission, inspection, or parole in May 1997. The record reflects that the Petitioner’s criminal history includes:

- Σ 2010 arrest conviction for possession of more than one ounce of marijuana
- Σ 2011 conviction for driving with a suspended license
- Σ 2013 conviction for driving while having a 0.08% or higher blood alcohol, sentence to 30 days jail and 36 months probation
- Σ 2013 conviction for driving while having a 0.08% or higher blood alcohol, and hit and run: property damage; sentence to two days jail and 36 months probation
- Σ 2014 arrest for willful discharge of a firearm, carrying a loaded weapon
- Σ 2015 conviction for driving while having a 0.08% or higher blood alcohol with two priors, sentence to 120 days in jail and five years probation
- Σ 2015 conviction for reckless evading of a police officer, sentence to 20 days jail and 60 months probation

The Director determined that the Petitioner is inadmissible to the United States under the following grounds of inadmissibility in the Act:

- Σ 212(a)(2)(A)(i)(I): conviction or commission of a crime involving moral turpitude
- Σ 212(a)(2)(A)(i)(II): controlled substance conviction
- Σ 212(a)(2)(B): multiple convictions with aggregate sentence of five years or more
- Σ 212(a)(2)(C)(i): suspected or convicted controlled substance trafficker
- Σ 212(a)(6)(A)(i): alien present without admission or parole
- Σ 212(a)(6)(B): failure to attend removal proceeding
- Σ 212(a)(7)(B)(i)(I): nonimmigrant without a valid passport or nonimmigrant visa
- Σ 212(a)(9)(C)(i)(II): previously ordered removed and entered or attempted or enter without being admitted

On appeal, the Petitioner does not contest the grounds of inadmissibility determined to be applicable by the Director or otherwise argue that the Director erred in finding him inadmissible to the United States. Instead, the Petitioner asserts that he has demonstrated his rehabilitation and remorsefulness. We find that the record, as outlined above, supports the Director's finding that the Petitioner has been convicted of an offense involving a controlled substance, that he is present in the United States without admission or parole, and not in possession of a valid passport or nonimmigrant visa. As the Petitioner has not contested the grounds of inadmissibility identified by the Director, and the record demonstrates his inadmissibility to the United States under sections 212(a)(2)(A)(i)(II), 212(a)(6)(A)(i), and 212(a)(7)(B)(i)(I) of the Act, we need not determine whether the Petitioner is also inadmissible under the additional grounds cited by the Director.

As stated above, our review on appeal is limited to whether the Petitioner is in fact inadmissible to the United States, as determined by the Director. We do not have authority to review the Director's discretionary determination. Here, 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.

III. CONCLUSION

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

ORDER: The appeal is dismissed.