



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

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

MATTER OF O-F-I-E-

DATE: SEPT. 30, 2015

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-918, PETITION FOR U NONIMMIGRANT STATUS

The Petitioner seeks nonimmigrant classification as a victim of certain qualifying criminal activity. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(U), 8 U.S.C. § 1101(a)(15)(U). The Director, Vermont Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

**I. APPLICABLE LAW AND APPELLATE JURISDICTION**

Section 101(a)(15)(U)(i) of the Act, 8 U.S.C. § 1101(a)(15)(U)(i), provides for U nonimmigrant classification to victims of certain criminal activity who assist government officials in investigating or prosecuting such criminal activity. Section 212(d)(14) of the Act requires U.S. Citizenship and Immigration Services (USCIS) to determine whether any grounds of inadmissibility exist when adjudicating a Form I-918, Petition for U Nonimmigrant Status, and provides USCIS with the authority to waive certain grounds of inadmissibility as a matter of discretion. The petitioner bears the burden of establishing that he or she is admissible to the United States or that any grounds of inadmissibility have been waived. *See* 8 C.F.R. § 214.1(a)(3)(i).

For individuals seeking U nonimmigrant status who are inadmissible to the United States, the regulations at 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv) require the filing of a Form I-192, Application for Advance Permission to Enter as a Nonimmigrant, in conjunction with a Form I-918 petition in order to waive any ground of inadmissibility. The regulation at 8 C.F.R. § 212.17(b)(3) states in pertinent part: "There is no appeal of a decision to deny a waiver." As we do not have jurisdiction to review whether the Director properly denied the Form I-192, we do not consider whether approval of the Form I-192 should have been granted. The only issue that may come before us is whether the Director was correct in finding the Petitioner inadmissible to the United States and, therefore, requiring an approved Form I-192 pursuant to 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv).

**II. FACTS AND PROCEDURAL HISTORY**

The Petitioner is a native and citizen of Honduras who claims to have entered the United States on November 3, 2002, without inspection, admission or parole. The Petitioner filed the instant Form I-918 on June 20, 2013, along with a Form I-918 Supplement B, U Nonimmigrant Status Certification, and Form I-192. The Director ultimately denied the Form I-192, finding that the

Petitioner was inadmissible under section 212(a)(6)(A)(i) (present without admission) of the Act and that the Petitioner had not demonstrated that he warranted a favorable exercise of discretion. As the Petitioner was found inadmissible and his Form I-192 had been denied, the Director consequently denied the Petitioner's Form I-918. The Petitioner filed a timely appeal of the denial of his petition.

On appeal, the Petitioner submits a brief and additional evidence. The Petitioner does not dispute the Director's determination that he is inadmissible to the United States. Instead, the Petitioner asserts that the Director erred by placing too much weight on the Petitioner's conviction for driving while intoxicated and because he believes he was held to a higher standard than is required by law.

### III. ANALYSIS

We conduct appellate review on a *de novo* basis. On appeal, the Petitioner does not dispute that he is inadmissible to the United States on the stated ground but asserts that the Director's decision denying his Form I-192 was erroneous and he merits a favorable exercise of discretion such that his Form I-192 and Form I-918 should be granted. However, the Director denied the Petitioner's Form I-192 and we have no jurisdiction to review the denial of a Form I-192 submitted in connection with a Form I-918. *See* 8 C.F.R. § 212.17(b)(3).

### IV. CONCLUSION

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). The Petitioner has not established that he is admissible to the United States or that his grounds of inadmissibility have been waived. He is consequently ineligible for nonimmigrant classification under section 101(a)(15)(U)(i) of the Act, pursuant to 8 C.F.R. § 214.1(a)(3)(i).

**ORDER:** The appeal is dismissed.

Cite as *Matter of O-F-I-E-*, ID# 14444 (AAO Sept. 30, 2015)