



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

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

In Re: 33661396

Date: SEP. 16, 2024

Motion on Administrative Appeals Office Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks U 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 Vermont Service Center found the Petitioner inadmissible, and denied her corresponding Form I-192, Application for Advance Permission to Enter as Nonimmigrant (waiver application), as a matter of discretion. The Director then denied the Petitioner's Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that she did not establish her admissibility. We dismissed a subsequent appeal. The matter is now before us on combined motions to reopen and reconsider.

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). Upon review, we will dismiss the motions.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion, the Petitioner submits a brief and additional evidence. In our prior decision, incorporated here by reference, we concluded that the Petitioner had not been convicted of a crime involving moral turpitude (CIMT) and withdrew the Director's conclusion that she was inadmissible under section 212(a)(2)(A)(i)(I) of the Act. However, we concluded that the Petitioner did not contest the other grounds under which the Director found her inadmissible and informed the Petitioner that we do not have jurisdiction to review the Director's discretionary denial of her waiver application. As the Petitioner remained inadmissible under sections 212(a)(6)(A)(i)(Alien Present Without Admission or Parole - (PWAP)), 212(a)(6)(C)(i)(Fraud or Willful Misrepresentation), 212(a)(9)(A)(ii)(Alien Previously Removed, Not as an Arriving Alien), 212(a)(9)(B)(i)(II)(Non-LPR Unlawfully Present in U.S. One Year or More [after 4/1/97]), 212(a)(9)(C)(i)(I)(Unlawfully Present for One-Year Aggregate [after 4/1/97] and Entered or Attempted to Enter Without Being Admitted), and

212(a)(9)(C)(i)(II)(Previously Ordered Removed and Entered or Attempted to Enter Without Being Admitted) of the Act, we dismissed her appeal.

The Petitioner's brief and additional evidence submitted with her appeal focuses on issues with the preparation and submission of her waiver application. She contends that "the additional grounds of inadmissibility which the Director cites in his denial were clearly not discovered or known by Counsel's office at the time of the initial filing of the I-192," and claims that she is being held "liable for what is plainly a scrivener's error on the part of prior Counsel." The Petitioner further asserts that U.S. Citizenship and Immigration Services (USCIS) erred in denying her U petition as a matter of discretion. However, the matter before us, the denial of her U petition, was not denied as a matter of discretion. Rather, it was denied as a result of the denial of her waiver application, and the Petitioner filed combined motions of our dismissal of her appeal, not of the Director's decision on her waiver application. Although our dismissal of her appeal withdrew one of the grounds of inadmissibility found by the Director, the Petitioner remains inadmissible under the above stated grounds, and we do not have jurisdiction to review the Director's decision on her waiver application. She does not contend, here on motion, that the above stated grounds of inadmissibility do not apply to her, and as such, she has not overcome all grounds for the Director's denial.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.