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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

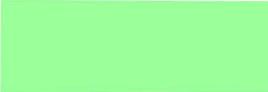


Date: JUN 26 2014

Office:

VERMONT SERVICE CENTER

FILE:



IN RE:

PETITIONER:



PETITION:

Petition for U Nonimmigrant Classification as a Victim of a Qualifying Crime Pursuant to Section 101(a)(15)(U) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(U)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center (the director), denied the U nonimmigrant visa petition and the Administrative Appeals Office (AAO) dismissed the subsequent appeal. The matter is again before the AAO on motion to reconsider. The motion will be dismissed and the underlying petition will remain denied.

The petitioner seeks nonimmigrant classification under section 101(a)(15)(U) of the Immigration and Nationality Act (the Act), as an alien victim of certain qualifying criminal activity. On January 24, 2013, the director denied the Form I-918, Petition for U Nonimmigrant Status (Form I-918 U petition), because the petitioner did not establish that he was a victim of qualifying criminal activity or his continuing helpfulness in the investigation or prosecution of qualifying criminal activity. The petitioner, through counsel, filed an appeal with the AAO. The appeal was dismissed as the petitioner did not establish that he was the victim of a qualifying crime or his continuing helpfulness to law enforcement authorities. The petitioner, through counsel, filed the instant motion to reconsider with the AAO.

The regulation at 8 C.F.R. § 103.5(a)(3) states, in pertinent part:

\* \* \*

*Requirements for motion to reconsider.* A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. . . .

\* \* \*

On motion, counsel reiterates her assertions in the appeal that battery is a qualifying crime, felonious assault; that the petitioner suffered serious injury as a result of the battery; and the petitioner was helpful to law enforcement authorities in the investigation of the crime. In support of her claim, counsel submits a brief. Counsel fails to establish that the AAO's November 4, 2013 decision was based on an incorrect application of law or United States Citizenship and Immigration Services (USCIS) policy as required, and she does not support her contentions with any pertinent precedent decisions. As such, the motion to reconsider must be dismissed for failing to meet applicable requirements. 8 C.F.R. § 103.5(a)(4).

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). Here, that burden has not been met.

**ORDER:** The motion is dismissed. The petition remains denied.