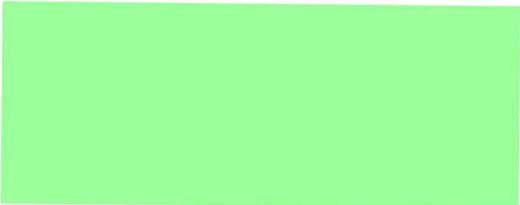




U.S. Citizenship  
and Immigration  
Services

(b)(6)

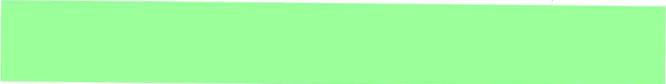


Date: **SEP 04 2014**

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:

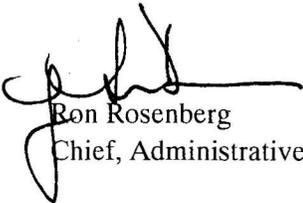


INSTRUCTIONS:

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. The director denied the Form I-918, Petition for U Nonimmigrant Status (Form I-918 U petition), because although the petitioner was statutorily eligible for U nonimmigrant status, he was inadmissible to the United States and his Application for Advance Permission to Enter as Nonimmigrant (Form I-192) was denied. We affirmed the director's decision, noting that the petitioner failed to establish that he was admissible to the United States or that his ground of inadmissibility under section 212(a)(6)(A)(i) (present without admission or parole) of the Act was waived. The petitioner, through counsel, filed a motion to reconsider our decision.

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 his assertions in the appeal regarding the petitioner being rehabilitated, and if he returns to Honduras, his four U.S. citizen children and wife will suffer emotionally and financially. In support of his claim, counsel submits a brief. Counsel fails to establish that our February 20, 2014 decision was based on an incorrect application of law or United States Citizenship and Immigration Services (USCIS) policy as required, and he does not support his 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.