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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE:  Office: VERMONT SERVICE CENTER Date: **NOV 10 2010**

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 in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion. The fee for a Form I-290B is currently \$585, but will increase to \$630 on November 23, 2010. Any appeal or motion filed on or after November 23, 2010 must be filed with the \$630 fee. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the U nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks nonimmigrant classification under section 101(a)(15)(U) of the Immigration and Nationality Act ("the Act"), 8 U.S.C. § 1101(a)(15)(U), as an alien victim of certain qualifying criminal activity.

The director denied the petition because the petitioner did not establish that she had been the victim of a qualifying crime or criminal activity, as set out at section 101(a)(15)(U)(iii) of the Act, and the petitioner consequently could not establish any of the statutory eligibility requirements which all include that the crime is a qualifying crime or criminal activity. On appeal, counsel submits a brief.

Applicable Law

Section 101(a)(15)(U) of the Act, provides, in pertinent part, for U nonimmigrant classification to:

- (i) subject to section 214(p), an alien who files a petition for status under this subparagraph, if the Secretary of Homeland Security determines that --
 - (I) the alien has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described in clause (iii);
 - (II) the alien . . . possesses information concerning criminal activity described in clause (iii);
 - (III) the alien . . . has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement official, to a Federal, State, or local prosecutor, to a Federal or State judge, to the Service, or to other Federal, State, or local authorities investigating or prosecuting criminal activity described in clause (iii); and
 - (IV) the criminal activity described in clause (iii) violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States;

* * *

(iii) the criminal activity referred to in this clause is that involving one or more of the following or any similar activity in violation of Federal, State, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned

crimes[.]

Section 214(p) of the Act, 8 U.S.C. § 1184(p), further prescribes, in pertinent part:

(1) Petitioning Procedures for Section 101(a)(15)(U) Visas

The petition filed by an alien under section 101(a)(15)(U)(i) shall contain a certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating criminal activity described in section 101(a)(15)(U)(iii). This certification may also be provided by an official of the Service whose ability to provide such certification is not limited to information concerning immigration violations. This certification shall state that the alien “has been helpful, is being helpful, or is likely to be helpful” in the investigation or prosecution of criminal activity described in section 101(a)(15)(U)(iii).

* * *

(4) Credible Evidence Considered

In acting on any petition filed under this subsection, the consular officer or the [Secretary of Homeland Security], as appropriate, shall consider any credible evidence relevant to the petition.

The regulation at 8 C.F.R. § 214.14(c)(4), prescribes the evidentiary standards and burden of proof in these proceedings:

The burden shall be on the petitioner to demonstrate eligibility for U-1 nonimmigrant status. The petitioner may submit any credible evidence relating to his or her Form I-918 for consideration by USCIS. USCIS shall conduct a de novo review of all evidence submitted in connection with Form I-918 and may investigate any aspect of the petition. Evidence previously submitted for this or other immigration benefit or relief may be used by USCIS in evaluating the eligibility of a petitioner for U-1 nonimmigrant status. However, USCIS will not be bound by its previous factual determinations. USCIS will determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence, including Form I-918, Supplement B, “U Nonimmigrant Status Certification.”

The regulation at 8 C.F.R. § 214.14(a) provides the following pertinent definitions:

(2) *Certifying agency* means a Federal, State, or local law enforcement agency, prosecutor, judge, or other authority, that has responsibility for the investigation or prosecution of a qualifying crime or criminal activity. This definition includes agencies that have criminal investigative jurisdiction in their respective areas of expertise, including, but not limited to, child protective services, the Equal Employment Opportunity Commission, and the Department of Labor.

(3) *Certifying official* means:

- (i) The head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency; or
- (ii) A Federal, State, or local judge.

* * *

(9) *Qualifying crime or qualifying criminal activity* includes one or more of the following or any similar activities in violation of Federal, State or local criminal law of the United States: Rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes. The term “any similar activity” refers to criminal offenses in which the nature and elements of the offenses are substantially similar to the statutorily enumerated list of criminal activities.

The eligibility requirements for U nonimmigrant classification are further explained in the regulation at 8 C.F.R. § 214.14, which states, in pertinent part:

(b) *Eligibility*. An alien is eligible for U-1 nonimmigrant status if he or she demonstrates all of the following . . .:

(1) The alien has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity. Whether abuse is substantial is based on a number of factors, including but not limited to: The nature of the injury inflicted or suffered; the severity of the perpetrator’s conduct; the severity of the harm suffered; the duration of the infliction of the harm; and the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim, including aggravation of pre-existing conditions. No single factor is a prerequisite to establish that the abuse suffered was substantial. Also, the existence of one or more of the factors automatically does not create a presumption that the abuse suffered was substantial. A series of acts taken together may be considered to constitute substantial physical or mental abuse even where no single act alone rises to that level;

(2) The alien possesses credible and reliable information establishing that he or she has knowledge of the details concerning the qualifying criminal activity upon which his or her petition is based. The alien must possess specific facts regarding the criminal activity leading a certifying official to determine that the petitioner has, is, or is likely to provide assistance to the investigation or prosecution of the qualifying criminal activity. . . .

(3) The alien has been helpful, is being helpful, or is likely to be helpful to a certifying agency in the investigation or prosecution of the qualifying criminal activity upon which his or her petition is based, and since the initiation of cooperation, has not refused or failed to provide information and assistance reasonably requested. . . .; and

(4) The qualifying criminal activity occurred in the United States (including Indian country and U.S. military installations) or in the territories or possessions of the United States, or violated a U.S. federal law that provides for extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.

Facts and Procedural History

The record in this matter provides the following pertinent facts and procedural history. The petitioner is a native and citizen of Mexico. She entered the United States on or about November 29, 2000 as a B-2 nonimmigrant visitor. On April 17, 2007, the petitioner was arrested along with 18 other undocumented workers at a plant in Aurora, Colorado. The petitioner was placed in removal proceedings before the immigration court on April 18, 2007.

The petitioner filed the instant Form I-918, Petition for U Nonimmigrant Status, on September 2, 2008. On December 17, 2009, the director issued a Request for Evidence (RFE), asking the petitioner to submit evidence to demonstrate that the crime listed on the Form I-918 Supplement B, U Nonimmigrant Status Certification (Form I-918 Supplement B), was similar to any of the specifically enumerated qualifying crimes or criminal activity defined in section 101(a)(15)(U)(iii) of the Act. Counsel for the petitioner responded to the RFE on March 3, 2010. The director found the response insufficient to establish the petitioner's eligibility. Accordingly, the director denied the petition. Counsel timely appealed.

Counsel asserts that the crime of which the petitioner is a victim is not only similar to trafficking, which is a crime enumerated at section 101(a)(15)(U)(iii) of the Act, but also falls squarely within the elements set out in the federal human trafficking law. Counsel also asserts that the criminal activity described could also fall under the qualifying crime of involuntary servitude.

The Offense of Which the Petitioner was a Victim

When filing her Form I-918 U petition, the petitioner submitted a Form I-918 Supplement B that was certified by [REDACTED] on July 1, 2008. At Part 3, Item 1, [REDACTED] indicated that the petitioner was a victim of criminal activity involving trafficking and related crime(s). At item #3, Part 3 of the Form I-918 Supplement B, [REDACTED] referred to an attachment that identified the statutory citations for the criminal activity that had been investigated or prosecuted. The statutory citations include: (1) 18 U.S.C. § 371 – Conspiracy to Possess, Receive, Obtain and Transfer False and Counterfeited Immigration and Identification Documents; (2) 18 U.S.C. §§ 1546(a) and 2 – Obtaining and Possessing a False and Counterfeited Alien Registration Card; (3) 18

U.S.C. §§ 1546(a) and 2 – Obtaining and Possessing a False and Counterfeited Social Security Card; (4) 18 U.S.C. § 1028A and 2 – Aggravated Identity Theft; and (5) 18 U.S.C. § 1028(a)(3)(b)(1) – Transfer of More than Four Identification Documents. [REDACTED] also noted that on October 12, 2007, he had filed an Information against two defendants charging that they had engaged in a pattern and practice of hiring and continuing to employ illegal aliens at the [REDACTED] plant knowing that the aliens were not lawfully admitted for permanent residence in the United States and were not authorized to be employed in the United States, in violation of Title 8 United States Code section 1324a(a)(1)(A) and (2) and (f).

Section 371 of Title 18 of the United States Code reads in pertinent part:

Conspiracy to commit offense or to defraud United States - If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

Section 1546(a) and 2 of Title 18 of the United States Code reads in pertinent part: Fraud and misuse of visas, permits, and other documents -

(a) Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or

Whoever, except under direction of the Attorney General or the Commissioner of the Immigration and Naturalization Service, or other proper officer, knowingly possesses any blank permit, or engraves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of permits, or makes any print, photograph, or impression in the likeness of any immigrant or nonimmigrant visa, permit or other document required for entry into the United States, or has in his possession a distinctive paper which has been adopted by the Attorney General or the Commissioner of the Immigration and Naturalization Service for the printing of such visas, permits, or documents; or

Whoever, when applying for an immigrant or nonimmigrant visa, permit, or other document required for entry into the United States, or for admission to the United States personates another, or falsely appears in the name of a deceased individual, or

evades or attempts to evade the immigration laws by appearing under an assumed or fictitious name without disclosing his true identity, or sells or otherwise disposes of, or offers to sell or otherwise dispose of, or utters, such visa, permit, or other document, to any person not authorized by law to receive such document; or Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact—

(b) Whoever uses—

(2) an identification document knowing (or having reason to know) that the document is false, . . .

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be fined under this title, imprisoned not more than 5 years, or both.

Section 1028A and 2 of Title 18 of the United States Code – Aggravated Identity Theft reads in pertinent part:

(a) Offenses.—

(1) In general.— Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 2 years.

Section 1028(a)(3) of Title 18 of the United States Code – Fraud and related activity in connection with identification documents, authentication features, and information reads in pertinent part:

(a) Whoever, in a circumstance described in subsection (c) of this section—

(3) knowingly possesses with intent to use unlawfully or transfer unlawfully five or more identification documents (other than those issued lawfully for the use of the possessor), authentication features, or false identification documents;

Section 1324(a)(1)(A), of Title 18 of the United States Code indicates:

(1) In general it is unlawful for a person or other entity - (A) to hire, or to recruit or refer for a fee, for employment in the United States as alien knowing the alien is an

unauthorized alien (as defined in subsection (h)(3) of this section) with respect to such employment, or

(2) Continuing employment, after hiring an alien for employment in accordance with paragraph (1), to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

Section 1324(f) of Title 18 of the United States Code provides the criminal penalties and injunctions for a pattern or practice of violations.

Counsel refers to the federal definition of the term “severe forms of trafficking in persons” from Chapter 78 of the Trafficking Victims Protection Act of 2000 (TVPA) which is found at 22 U.S.C. § 7102(8) and states in pertinent part:

The term “severe forms of trafficking in persons” means--

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Counsel for the petitioner in this matter also refers to Title 18 Crimes and Criminal Procedure of the United States Code Annotated which sets out the penalty for peonage, slavery, and trafficking in persons and which states in pertinent part:

1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor

(a) Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

(b) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be subject to the penalties under subsection (a).

According to the petitioner’s statement, dated August 21, 2008, she began working at [REDACTED] a potato growing and packing company in Colorado in or about April 2006. She acknowledged that she was not authorized to work in the United States but was hired nevertheless. The petitioner noted that she observed that the foremen, a plant manager, and an employee “offer potential illegal alien employees the possibility of working” at the plant even though they had fake documentation or no documentation at all. The petitioner indicated that it was clear that the vast

majority of employees at the plant were illegal aliens. The petitioner recalled: an incident where three employees were dismissed because they did not have proper documentation but were then subsequently rehired; unfair treatment of illegal aliens working at the plant who were injured and discharged without worker's compensation; and that lawful permanent resident aliens would be fired while illegal aliens remained employed because they cost less to employ. The petitioner stated that she expressed concern to the foreman and plant manager that she was working without papers but she was informed that she could continue to work even though she was in the United States illegally. The petitioner stated that she worked under an atmosphere of intimidation since she knew she could be fired at any time for no reason and she was afraid to report any wrongdoing she observed because she was afraid she might be deported. The petitioner also indicated her horror at being arrested and detained on April 17, 2007 when the plant was raided by United States government officials.

In [REDACTED] narrative describing the indictments against three perpetrators, he noted that the indictments arose out of an undercover operation investigating the [REDACTED] plant beginning in early 2006 after complaints were received regarding the treatment of illegal aliens at the company. [REDACTED] noted: that the plant manager was sentenced to one year of probation and ordered to pay a fine of \$1,000 and a \$10 special assessment fee in violation of Title 8 U.S.C. § 1324a(a)(1)(A) and (2) and (f); that the foremen was sentenced to one year probation and ordered to pay a fine of \$1,000 and a \$10 special assessment fee in violation of Title 8 U.S.C. § 1324a(a)(1)(A) and (2) and (f); and that an employee pled guilty to felony counts of obtaining and possessing a false and counterfeited alien registration card and aiding and abetting the transfer of more than four identification documents and that he was sentenced to 15 months of incarceration on each of the counts. [REDACTED] noted his belief "that the criminal activity involved is somewhat similar to or related to 'alien trafficking' in that it could be argued that the employers implicitly coerced their employees in keeping silent regarding their illegal hiring practices and paid them substantially lower wages with a silent threat of deportation if they complained." [REDACTED] refers to a situation of "forced labor" found at 8 U.S.C.A. § 1589 wherein someone knowingly provides or obtains the labor or services of a person by means of the abuse or threatened abuse of law or the legal process.

The Various Crimes Listed in the Indictment are Not Substantially Similar to the Qualifying Crime of Trafficking

For an offense to constitute a "similar activity" to a qualifying crime under section 101(a)(15)(U)(iii) of the Act, the nature and elements of the offense must be substantially similar to one of the qualifying criminal activities in the statutorily enumerated list. 8 C.F.R. § 214.14(a)(9). The crimes that [REDACTED] lists on the Form I-918 Supplement B all lack the essential element of moving aliens for the purpose of securing their labor or services, which is central to the crime of human trafficking. The crimes listed in the indictment are also dissimilar to trafficking because they involve the use of fraudulently obtained documents to enable individuals to work and reside in the United States whereas the nature of human trafficking as defined above is the obtainment or movement of a person for the person's labor or services. In this matter, neither counsel, the petitioner, nor [REDACTED] indicates that the petitioner was recruited, harbored, transported or obtained for her labor or services.

The petitioner explained in her statement that she voluntarily sought work at [REDACTED] [REDACTED] after her arrival in the United States. She was not recruited, harbored, transported or obtained by the company for the purpose of securing her labor or services.

The crimes of which the petitioner was a victim, as set out at item #3, Part 3 of the Form I-918 Supplement B, do not include the elements of transporting, concealing or obtaining aliens for the purpose of securing their labor or services, a central element in the crime of human trafficking. Similarly, the petitioner's willingness to work removes the crimes from a definition of involuntary servitude. The record indicates that the petitioner voluntarily sought out employment and although one or more of the perpetrators of the crime may have assisted or known of her illegal employment, the record does not support a conclusion that the perpetrators subjected the petitioner to human trafficking pursuant to 18 U.S.C. § 1590. The crimes for which the petitioner is a victim, as set out at item #3, Part 3 of the Form I-918 Supplement B, also lack the elements of force, fraud, or coercion and subjection of the victims to involuntary servitude, peonage, debt bondage or slavery which are central to severe forms of trafficking in persons, as defined at 22 U.S.C. § 7102(8).

Additionally, the record contains no evidence that the United States Attorney's Office, the certifying agency in this case, investigated or prosecuted the perpetrators for human trafficking. Although item #1, Part 3 of the Form I-918 Supplement B lists the criminal offense of trafficking and "related crimes," the certifying agency does not cite a specific federal, state, or local statute indicating that it was investigating or prosecuting these crimes. We also recognize that qualifying criminal activity may occur in the course of the commission of a non-qualifying crime. *See* 72 Fed. Reg. 179, 53014-53042, 53018 (Sept. 17, 2007). However, the qualifying criminal activity must still be investigated or prosecuted by the certifying agency. Sections 101(a)(15)(U)(i)(III) and 214(p)(1) of the Act, 8 U.S.C. §§ 1101(a)(15)(U)(i)(III), 1184(p)(1); 8 C.F.R. §§ 214.14(b)(3), (c)(2)(i). Here, the record contains no evidence that the certifying agency investigated the perpetrators for human trafficking. We acknowledge [REDACTED] belief that the criminal activity involved is somewhat similar to or related to alien trafficking because of an implicit coercion to keep silent regarding the company's illegal hiring practices, but [REDACTED] does not indicate that his office ever investigated or prosecuted trafficking offenses. Moreover, [REDACTED] although referencing a situation of "forced labor" found at 8 U.S.C.A. § 1589 wherein someone knowingly provides or obtains the labor or services of a person by means of abuse or threatened abuse of law or the legal process, did not seek to charge or indict the perpetrators for this crime. Additionally, the record does not demonstrate that there were conditions of forced labor ongoing at the plant. Again, the petitioner does not indicate that she was forced to work illegally, she did so voluntarily. The relevant evidence also contains no indication that the certifying agency intends to investigate or prosecute the perpetrators for human trafficking or other qualifying crimes as the perpetrators pled guilty to and were sentenced for hiring and recruiting and continuing to employ unauthorized aliens for employment and obtaining and possessing a false and counterfeited alien registration card and aiding and abetting the transfer of more than four identification documents.

Substantial Physical or Mental Abuse

As the petitioner did not establish that she was the victim of a qualifying crime or criminal activity, she has also failed to establish that she suffered substantial physical or mental abuse as a result of having been victim of qualifying criminal activity. Accordingly, the petitioner has not as established the requirement of section 101(a)(15)(U)(i)(I) of the Act, 8 U.S.C. § 1101(a)(15)(U)(i)(I).

Possession of Information Concerning Qualifying Criminal Activity

As the petitioner did not establish that she was the victim of a qualifying crime or criminal activity, she has also failed to establish that she possesses information concerning such a crime or activity, as required by section 101(a)(15)(U)(i)(II) of the Act, 8 U.S.C. § 1101(a)(15)(U)(i)(II).

Helpfulness to Law Enforcement

As the petitioner did not establish that she was the victim of a qualifying crime or criminal activity, she has also failed to establish that she has been helpful, is being helpful, or is likely to be helpful to the certifying agency in the investigation or prosecution of the qualifying criminal activity upon which her petition is based, as required by section 101(a)(15)(U)(i)(III) of the Act, 8 U.S.C. § 1101(a)(15)(U)(i)(III).

Qualifying Criminal Activity in Violation of U.S. Laws

As the petitioner did not establish that she was the victim of a qualifying crime or criminal activity, she has also failed to establish that the qualifying criminal activity violated the laws of the United States or occurred in the United States, as required by section 101(a)(15)(U)(i)(IV) of the Act.

Conclusion

Although the petitioner was helpful in the investigation and ultimate conviction of three perpetrators of criminal activity involving violations of (1) 18 U.S.C. § 371 – Conspiracy to Possess, Receive, Obtain and Transfer False and Counterfeited Immigration and Identification Documents; (2) 18 U.S.C. §§ 1546(a) and 2 – Obtaining and Possessing a False and Counterfeited Alien Registration Card; (3) 18 U.S.C. §§ 1546(a) and 2 – Obtaining and Possessing a False and Counterfeited Social Security Card; (4) 18 U.S.C. § 1028A and 2 – Aggravated Identity Theft; (5) 18 U.S.C. § 1028(a)(3)(b)(1) – Transfer of More than Four Identification Documents; and Title 8 U.S.C. § 1324a(a)(1)(A) and (2) and (f), such offenses are not qualifying crimes or substantially similar to any other qualifying criminal activity listed at section 101(a)(15)(U)(iii) of the Act. The petitioner has also not demonstrated that the perpetrators were investigated or prosecuted for any other qualifying crime or substantially similar activity, as described in section 101(a)(15)(U)(iii) of the Act. Accordingly, the petitioner has not demonstrated that she meets any of the statutory eligibility requirements for U nonimmigrant classification at section 101(a)(15)(U)(i)(I) – (IV) of the Act. The petitioner is consequently ineligible for nonimmigrant



Page 12

classification under section 101(a)(15)(U) of the Act and her petition must remain denied.

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In these proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.14(c)(4). Here, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.