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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

D14

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: OCT 15 2010

IN RE: Petitioner: [redacted]

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:

SELF-REPRESENTED

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 nonimmigrant visa petition and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is again before the AAO on a motion to reconsider. The motion 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: (1) she has been the victim of qualifying criminal activity; (2) she has suffered substantial physical and mental abuse as a result of having been the victim of qualifying criminal activity; (3) she possesses credible and reliable information establishing that she has knowledge of the details concerning the qualifying criminal activity upon which her petition is based; (4) she has been, is being, or is likely to be helpful to United States (U.S.) law enforcement authorities investigating or prosecuting qualifying criminal activity; and (5) the qualifying criminal activity violated the laws of the United States or occurred in the United States. The AAO concurred with the director's decision, and dismissed the appeal on April 15, 2010.

On appeal, the petitioner submits a brief statement in which she declares, in part:

> [I] would like the Immigration Service . . . give me another chance. I really did my best to meet all the requirements. But unfortunately, despite all my efforts, I couldn't have the U nonimmigrant Status Certification . . . signed as requested. . . .
>
> [I] would like you to reconsider the persecution and threat that I already went throw [*sic*] by giving me another chance to live a peaceful life in the great land of America.

Pursuant to the regulation at 8 C.F.R. § 103.5(a)(3), a motion to reconsider must state the reasons for reconsideration, be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy, and establish that the decision was incorrect based on the evidence of record at the time of the initial decision. Here, the petitioner does not state or otherwise establish that our previous decision was incorrect based upon the record before us.

The regulation at 8 C.F.R. § 103.5(a)(4) states that a motion that does not meet applicable requirements shall be dismissed. As the petitioner' submission does not meet the requirements of a motion to reconsider at 8 C.F.R. § 103.5(a)(3), it must be dismissed. In visa petition 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. Here, that burden has not been met.

ORDER: The motion is dismissed. The AAO's previous decision, dated April 15, 2010, is affirmed. The petition remains denied.