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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:

SEP 23 2010

IN RE:

Petitioner:
Beneficiary:



PETITION: Petition for U Nonimmigrant Classification for a Qualifying Family Member of a U-1 Recipient Pursuant to Section 101(a)(15)(U)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(U)(ii)

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, with a fee of \$585. 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, approved the petitioner's U nonimmigrant status petition (Form I-918) but denied the Petition for Qualifying Family Member of a U-1 Recipient (Form I-918 Supplement A) submitted by the petitioner on behalf of the beneficiary. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner seeks nonimmigrant classification of her daughter under section 101(a)(15)(U)(ii) of the Immigration and Nationality Act ("the Act"), 8 U.S.C. § 1101(a)(15)(U)(ii), as a qualifying family member of a U nonimmigrant.

On February 12, 2010, the director denied the Form I-918 Supplement A because evidence in the record showed that the petitioner was not the legal mother of the beneficiary and thus the beneficiary did not meet the definition of a qualifying family member at 8 C.F.R. § 214.14(a)(10).

Counsel for the petitioner timely submits a Form I-290B, Notice of Appeal and checks the box on the Form I-290B indicating that a brief and/or additional evidence will be submitted to the AAO within 30 days. In a March 12, 2010 letter accompanying the Form I-290B, counsel requested that she be allowed a 90-day extension to submit further evidence so that DNA testing could be completed. On June 22, 2010, counsel sent a second letter to the AAO requesting an additional 60 days to supplement the record on appeal. The AAO by facsimile, dated June 25, 2010, informed counsel that her June 22, 2010 letter did not provide any updated information indicating why she was unable to obtain the supplemental evidence within the requested timeframe and thus the request to extend the time to supplement the record a second time on appeal was denied. The record is considered complete.

The regulation at 8 C.F.R. §103.3(a)(1)(v) states, in pertinent part: "An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

In this matter, neither counsel nor the petitioner submits any further evidence or argument establishing that the beneficiary in this matter is the legitimate child of the petitioner. As the petitioner in this matter has not provided evidence to overcome the director's determination that the beneficiary is not a qualifying family member of the petitioner, the appeal must be summarily dismissed.

The petition will be denied for the stated reasons set out in the director's decision. 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 appeal is summarily dismissed.