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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

PUBLIC COPY



U.S. Citizenship and Immigration Services



D14

Date: **JUL 28 2011** Office: VERMONT SERVICE CENTER Date: [Redacted]

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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:

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, with a fee of \$630. 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 her mother. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will remain denied.

The petitioner seeks nonimmigrant classification of her mother 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 (U-4 nonimmigrant) of a U-1 nonimmigrant.

The director denied the petition because the petitioner was over the age of 21 when she filed the Form I-918 Supplement A on her mother's behalf. On appeal, the petitioner submits a Form I-290B, Notice of Appeal or Motion, and additional evidence.

Section 101(a)(15)(U)(ii)(II) 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;

(ii) if accompanying, or following to join, the alien described in clause (i)--

* * *

(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien[.]

The regulation at 8 C.F.R. § 214.14(a)(10) defines a qualifying family member as, in pertinent part:

in the case of an alien victim 21 years of age or older . . . the spouse or child(ren) of such alien.

On October 14, 2008, the petitioner filed a Form I-918 U petition for herself and a Form I-918 Supplement A on her mother's behalf. On October 20, 2009, the petitioner was granted U-1 nonimmigrant status. On May 5, 2010, the director denied the Form I-918 Supplement A that the petitioner submitted on her mother's behalf because a U-1 nonimmigrant who is 21 years old or older may only petition for a spouse or child, not a parent. On appeal, the petitioner claims that when she filed the Form I-918 Supplement A on her mother's behalf, she was 20 years old and therefore a minor. The petitioner submits copies of fingerprinting notices for herself, a copy of her Form I-918 U petition receipt notice, and a letter addressed to her from her attorney notifying her to appear for fingerprinting.

Analysis

The petitioner, who was born on May 28, 1987, was already 21 years old when she filed the Form I-918 Supplement A on her mother's behalf on October 14, 2008. Although the petitioner states on appeal that she was only 20 years old when she filed the I-918 Supplement A, she provides no evidence of having filed a request for U nonimmigrant status for herself and her mother before October 14, 2008. U.S. Citizenship and Immigration Services (USCIS) records also do not show the receipt of a request from the petitioner for U nonimmigrant status prior to October 14, 2008. As section 101(a)(15)(U)(ii)(II) of the Act specifies that only the spouse or child of a U-1 nonimmigrant who is 21 years old or older may be granted U-4 derivative status, the petitioner's mother is not eligible for classification as a qualifying family member as explicated in the regulation at 8 C.F.R. § 214.14(a)(10).

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), (f)(5). Here, that burden has not been met as to the petitioner's mother's eligibility for U-4 nonimmigrant status as a qualifying family member.

ORDER: The appeal is dismissed. The Form I-918 Supplement A remains denied.