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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



**U.S. Citizenship
and Immigration
Services**

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D14

Date: **SEP 15 2011** 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 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, denied the Petition for U Nonimmigrant Status (Form I-918 U petition) and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen and reconsider. The motion to reopen and reconsider will be dismissed and the petition will remain denied.

The petitioner is a native and citizen of Venezuela who was admitted to the United States as a B-1 visitor on February 21, 1998. On October 20, 2008, the petitioner filed the Form I-918 U petition. On December 10, 2009, the director issued a Request for Evidence (RFE). On March 11, 2010, the director issued a second RFE. The petitioner responded to both requests with additional evidence, which the director found insufficient to establish the petitioner's eligibility. The director denied the petition, and the petitioner filed a timely appeal. The petitioner seeks nonimmigrant classification under section 101(a)(15)(U)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(U)(i), as an alien victim of certain qualifying criminal activity.

On appeal, counsel contended that the crime of making a false statement to obtain property or credit is substantially similar to the enumerated crimes of extortion and blackmail. *See Brief on Appeal.*

The AAO dismissed the applicant's appeal because, although the petitioner was the victim of an immigration scam, and he had been helpful in the investigation or prosecution of a suspect for making a false statement to obtain property or credit under Florida law, he had not established that he was a victim of a qualifying criminal activity that was investigated or prosecuted by a certifying agency. Accordingly, the petitioner did not demonstrate that he met the statutory eligibility requirements for U nonimmigrant classification at section 101(a)(15)(U)(i)(I) – (IV) of the Act. *See Decision of AAO*, dated December 7, 2010.

In the motion to reopen and reconsider, counsel submits a brief setting forth the same, identical arguments she set forth in her appeal. *See Brief in Support of Motion*, dated January 6, 2011. In support of her motion to reopen and reconsider, counsel submits only the referenced brief. The entire record was reviewed in rendering a decision in this case.

The regulation at 8 C.F.R. § 103.5(a) provides, in pertinent part:

(2) Requirements for motion to reopen.

A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence. . . .

(3) 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. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was

incorrect based on the evidence of record at the time of the initial decision.

Counsel fails to provide any new or additional facts or evidence to support a motion to reopen.

In support of the motion to reconsider, counsel contends that the crime of making a false statement to obtain property or credit is substantially similar to the enumerated crimes of extortion and blackmail. Counsel fails to make any argument or provide pertinent precedent decisions to support a finding that the AAO incorrectly applied the law. Accordingly, the AAO finds that counsel failed to state reasons for reconsideration that are supported by any pertinent precedent decisions establishing that the AAO's decision was based on an incorrect application of law. As discussed in the AAO's prior decision, although the petitioner was the victim of an immigration scam, and he was helpful in the investigation or prosecution of a suspect for making a false statement to obtain property or credit under Florida law, he had not established that he was a victim of a qualifying criminal activity that was investigated or prosecuted by a certifying agency. As discussed in its prior decision, the AAO finds that the petitioner has not demonstrated that he meets the statutory eligibility requirements for U nonimmigrant classification at section 101(a)(15)(U)(i)(I) – (IV) of the Act.

After a careful review of the record, it is concluded that the applicant has failed to establish that the contentions submitted in the motion to reopen or reconsider meet the requirements of a motion to reopen or motion to reconsider. Accordingly, the motion to reopen or reconsider is dismissed pursuant to 8 C.F.R. § 103.5(a)(4) for failing to meet applicable requirements, and the order dismissing the appeal is affirmed.

ORDER: The AAO's prior decision, dated December 7, 2010, is affirmed. The petition remains denied.