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

U.S. Citizenship and Immigration Services

[redacted]

D14

Date: APR 1 2 2012 Office: VERMONT SERVICE CENTER File: [redacted]

IN RE: Petitioner: [redacted]

PETITION: Petition for Nonimmigrant Classification as a Victim of Qualifying Criminal Activity 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, 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, denied the Petition for U Nonimmigrant Status (Form I-918 U petition) and 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 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 is not admissible to the United States and her Application for Advance Permission to Enter as a Nonimmigrant (Form I-192) was denied. On appeal, prior counsel submitted a brief and additional evidence. Prior counsel did not dispute the director's determination that the petitioner is inadmissible to the United States; her arguments related solely to why the director should have favorably exercised his discretion and granted the petitioner's Form I-192. On February 16, 2012, counsel withdrew her representation of the petitioner in this case.

The regulation at 8 C.F.R. § 212.17(b)(3) states, in pertinent part: "There is no appeal of a decision to deny a waiver." The AAO does not have jurisdiction to review whether the director properly denied the Form I-192 waiver application; therefore, the AAO cannot consider the petitioner's arguments on appeal that the Form I-192 waiver application should have been granted. The only issue before the AAO is whether the director was correct in finding the petitioner to be inadmissible and requiring an approved waiver pursuant to 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv).

In her statement, dated October 26, 2007, the petitioner recounted that her spouse arranged for a friend of his to marry her so that she could obtain lawful permanent resident status. She stated that the marriage was a sham and that the friend eventually backed out. The record reflects that, on September 23, 1993, the petitioner obtained lawful permanent residence through her marriage to [redacted] and that her lawful permanent residency was revoked on October 16, 1995. The petitioner was placed into removal proceedings and was granted voluntary departure until July 1, 1996. The applicant failed to surrender for removal or depart from the United States, thereby changing the voluntary departure to a final order of removal. The petitioner also admitted before a family court judge that she and her spouse had prearranged to engage in marriage fraud by marrying U.S. citizens in order to obtain U.S. citizenship. The arrangement was that whoever obtained U.S. citizenship first would then divorce the U.S. citizen spouse and remarry the other spouse so that they could both obtain U.S. citizenship. Accordingly, the beneficiary is inadmissible to the United States pursuant to sections 212(a)(6)(C)(i) and 212(a)(9)(A) of the Act, 8 U.S.C. §§ 1182(a)(6)(C)(i) and 1182(a)(9)(A), for willfully misrepresenting a material fact in order to obtain immigration benefits and for having been ordered removed from the United States.

The AAO conducts appellate review on a de novo basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). 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). Although the petitioner has met the statutory eligibility requirements for U nonimmigrant classification, she is

[1] Name withheld to protect identity of individual.

inadmissible under sections 212(a)(6)(C)(i) and 212(a)(9)(A) of the Act and her Form I-192 has been denied. She is consequently ineligible for nonimmigrant classification under section 101(a)(15)(U)(i) of the Act, pursuant to 8 C.F.R. § 214.1(a)(3).

ORDER: The appeal is dismissed. The petition remains denied.