

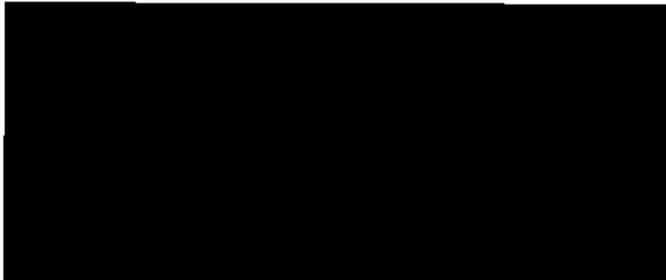
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



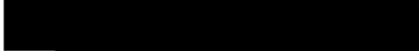
U.S. Citizenship
and Immigration
Services



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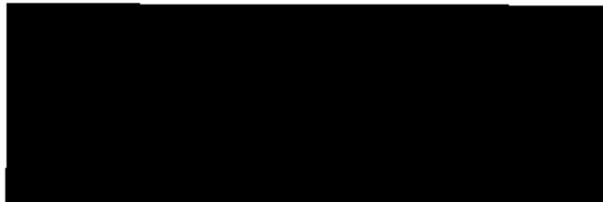
Date: **AUG 14 2012**

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:

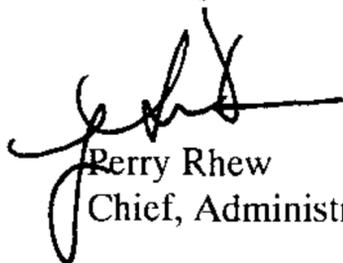


INSTRUCTIONS:

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630, or a request for a fee waiver. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 (the director), 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 reconsider. The motion to reconsider will be dismissed and the petition will remain denied.

The petitioner is a native and citizen of the Republic of Trinidad and Tobago who entered the United States in May 2001 as a nonimmigrant visitor. The petitioner filed the instant Form I-918 U petition on July 27, 2010. The director found the petitioner ineligible for U nonimmigrant status because he failed to establish that he suffered substantial physical or mental abuse as a result of qualifying criminal activity. On appeal, prior counsel submitted a brief and evidence already included in the record. 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, prior counsel contended that the petitioner was the victim of the crime of grand larceny which is substantially similar to the enumerated crime of extortion; and that the petitioner suffered substantial physical or mental abuse as a result of qualifying criminal activity. *See Memorandum of Law in Support of Notice of Appeal.*

The AAO dismissed the applicant's appeal because the law enforcement certification (LEC) was deficient in establishing that the petitioner was a victim of grand larceny in the second degree; the record contained no evidence that the crime investigated, prosecuted and committed against the petitioner involved grand larceny by extortion under subsection two of NYPL § 155.40; the petitioner had not established that he was the victim of extortion or any other qualifying criminal activity that was investigated or prosecuted by a certifying agency; and the petitioner failed to establish that he suffered substantial physical or mental abuse as a result of qualifying criminal activity. 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 February 22, 2012.*

In the motion to reconsider, counsel submits a brief reasserting the petitioner's eligibility. *See Motion to Reconsider*, dated March 20, 2012. In support of his motion to reconsider, counsel submits the referenced brief and a new statement from the petitioner. 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:

(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.

In support of the motion to reconsider, counsel contends that the crime of grand larceny is substantially similar to the enumerated crime of extortion. Counsel asserts that the statute under which the perpetrator was prosecuted includes a subsection for extortion and that, even though the perpetrator was not convicted for committing extortion, it does not mean that the crime was not similar to the crime of extortion. Counsel claims that the petitioner was the victim of extortion because the perpetrator took the petitioner's money and threatened to report the petitioner to immigration or have him deported. As discussed in the AAO's prior decision, the LEC was deficient in establishing that the petitioner was a victim of grand larceny in the second degree because it did not describe the petitioner's victimization or any known or documented injuries to him and the documentation attached to the LEC did not name the petitioner as a victim. The AAO also found that, even if the relevant evidence had established that the petitioner was the victim of grand larceny in the second degree, the specific statutory citation listed on the LEC is NYPL § 155.40-1, which does not include the activity of extortion.

In support of the motion to reconsider, counsel contends that the petitioner suffered direct and proximate harm as a result of the commission of a qualifying criminal activity; however, as discussed above, on motion, counsel has failed to establish that the petitioner was the victim of the crime of extortion or criminal activity substantially similar to a qualifying criminal activity.

Counsel fails to make any argument or provide pertinent precedent decisions to support a finding that the AAO incorrectly applied the law. As discussed in the AAO's prior decision, although the petitioner was helpful in the investigation or prosecution of a suspect for grand larceny under New York law, he has not established that he was a victim of 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 reconsider meet the requirements of a motion to reconsider. Accordingly, the motion to 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 February 22, 2012 is affirmed. The petition remains denied.