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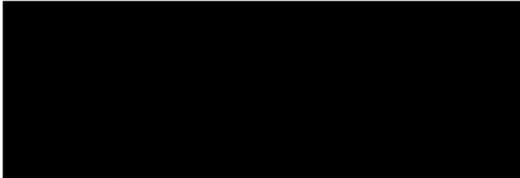
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

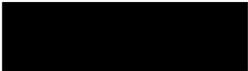


U.S. Citizenship
and Immigration
Services

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Date: JAN 11 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:

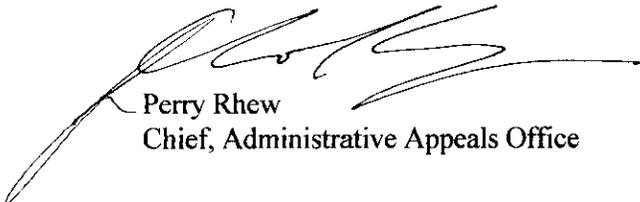


INSTRUCTIONS:

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 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 (“the director”), denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily 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 Form I-918 U petition because of the petitioner’s status as a conditional resident of the United States.¹ Specifically, the director, citing *Matter of A*, 6 I&N Dec. 651 (BIA 1995), stated that an alien may not be both an immigrant and a nonimmigrant at the same time. The director also noted that the definition of “immigrant” at section 101(a)(15) of the Act does not include an alien described at section 101(a)(15)(U) of the Act. On appeal, the petitioner through counsel submits a Notice of Appeal (Form I-290B), and a copy of his sister’s law enforcement certification. On the Form I-290B counsel stated “See attached” in the space for providing the basis for the appeal. However, counsel’s attachments to the Form I-290B include no brief or any other statement citing any erroneous conclusion of law or fact in the director’s decision.

The regulation at 8 C.F.R § 103.3(a)(1)(v) provides for the summary dismissal of an appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The petitioner’s appeal shall be summarily dismissed because he has not demonstrated that the director made an erroneous conclusion of law or statement of fact in his denial decision. Pursuant to section 214(p)(5) of the Act, 8 U.S.C. § 1184(p)(5), an alien seeking U nonimmigrant status may apply for any other immigration benefit or status for which he or she may be eligible. However, USCIS will only grant one immigrant or nonimmigrant status at a time. *See* 72 Fed. Reg. 179, 53014-53042, 53018 (Sept. 17, 2007). As the petitioner is currently a conditional resident of the United States he is ineligible for U nonimmigrant status.

As in all visa petition proceedings, the petitioner bears the burden of proving his eligibility for U nonimmigrant status. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.14(c)(4). Here, that burden has not been met. Accordingly, the appeal will be summarily dismissed.

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

¹ Records of U.S. Citizenship and Immigration Services (USCIS) indicate that the petitioner became a conditional resident on [REDACTED] 2010.