

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

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



B14

Date: JUL 16 2012 Office: VERMONT SERVICE CENTER FILE: [Redacted]

IN RE: PETITIONER: [Redacted]

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:  
[Redacted]

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 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.

*Applicable Law*

Section 101(a)(15)(U) of the Act provides U nonimmigrant classification to alien victims of certain qualifying criminal activity and their qualifying family members. Section 214(p)(1) of the Act, 8 U.S.C. § 1184(p)(1), states:

The petition filed by an alien under section 101(a)(15)(U)(i) shall contain a certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating criminal activity described in section 101(a)(15)(U)(iii). This certification may also be provided by an official of the Service whose ability to provide such certification is not limited to information concerning immigration violations. This certification shall state that the alien "has been helpful, is being helpful, or is likely to be helpful" in the investigation or prosecution of criminal activity described in section 101(a)(15)(U)(iii).

Regarding the application procedures for U nonimmigrant classification, the regulation at 8 C.F.R. § 214.14(c) states, in pertinent part:

(2) *Initial evidence.* Form I-918 must include the following initial evidence:

....

(iii) A signed statement by the petitioner describing the facts of the victimization.

In addition, like all other nonimmigrants, petitioners for U classification must establish their admissibility to the United States or show that any grounds of inadmissibility have been waived. 8 C.F.R. § 214.1(a)(3)(i). For aliens seeking U nonimmigrant status who are inadmissible to the United States, the regulations at 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv) require the filing of an Application for Advance Permission to Enter as a Nonimmigrant (Form I-192) in conjunction with a Form I-918 U petition in order to waive any ground of inadmissibility.

The burden of proof is on the petitioner to demonstrate eligibility for U nonimmigrant classification. 8 C.F.R. § 214.14(c)(4). The AAO conducts appellate review on a de novo basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). All credible evidence relevant to the petition will be considered. Section 214(p)(4) of the Act; *see also* 8 C.F.R. § 214.14(c)(4) (setting forth evidentiary

standards and burden of proof).

*Factual and Procedural History*

The petitioner is a native and citizen of Lebanon who was admitted to the United States on January 22, 1994 as a nonimmigrant business visitor. On December 31, 2008, the petitioner filed the Form I-918 U petition. The director subsequently issued multiple Requests for Evidence (RFEs) to obtain, in part, a properly executed victim statement. In response, however, the petitioner did not submit such a document. The director denied the petition due to the lack of a victim statement and because the petitioner is inadmissible to the United States and his Form I-192 was denied. On appeal, counsel submits a brief, a victim statement and other evidence.

*Initial Evidence*

The petitioner was required to submit a victim statement as initial evidence but did not submit such a statement until on appeal. 8 C.F.R. § 214.14(c)(2)(iii). The petitioner has not complied with the regulation at 8 C.F.R. § 214.14(c)(2) regarding the submission of required initial evidence. For this reason, his appeal must be dismissed and his petition must remain denied.

Section 214(p)(1) of the Act provides that a petition for U nonimmigrant classification must contain a law enforcement certification. The regulation at 8 C.F.R. § 214.14(a)(2)(i) provides that the law enforcement certification is required initial evidence. Further, the regulations governing the filing of petitions with U.S. Citizenship and Immigration Services (USCIS) provide for the general requirement that all petitions must contain a handwritten signature. 8 C.F.R. § 103.2(a)(2). The Form I-918 Supplement B, U Nonimmigrant Status Certification (Form I-918 Supplement B) submitted by the petitioner was insufficient, as the signature and date on the Form I-918 Supplement B were photocopies. The petitioner has not submitted the original Form I-918 Supplement B with the required original signature.

*Inadmissibility*

The director also denied the petition because the petitioner is inadmissible to the United States under: section 212(a)(2)(A)(i)(I) of the Act as an alien convicted of a crime involving moral turpitude; section 212(a)(6)(C)(i) of the Act as an alien who committed fraud in an attempt to obtain immigration benefits; section 212(a)(9)(A)(ii) of the Act as an alien ordered removed from the United States; and section 212(a)(9)(B)(i)(II), as an alien who was unlawfully present in the United States for more than one year and seeks admission within ten years after his last departure.

On appeal, the petitioner does not dispute the director's determination that he is inadmissible to the United States. Instead, the petitioner asserts that he has submitted a second Form I-192. On February 6, 2012, the director denied the second Form I-192.

All nonimmigrants must establish their admissibility to the United States or show that any grounds of

inadmissibility have been waived. 8 C.F.R. § 214.1(a)(3)(i). There is no appeal of a decision to deny a Form I-192 waiver application. 8 C.F.R. § 212.17(b)(3). Consequently, the AAO lacks jurisdiction to review whether the director properly denied the Form I-192 waiver application. The only issue before the AAO on appeal is whether the director was correct in finding the petitioner to be inadmissible and requiring an approved waiver pursuant to the regulations at 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv).

The record does not contain evidence that the petitioner has been convicted of any crime. The AAO therefore withdraws the director's finding that the petitioner is inadmissible under section 212(a)(2)(A)(i)(I) of the Act.

The petitioner, however, is inadmissible under: section 212(a)(6)(C)(i) of the Act as an alien who committed fraud in an attempt to obtain immigration benefits; section 212(a)(9)(A)(ii) of the Act as an alien ordered removed from the United States; and section 212(a)(9)(B)(i)(II), as an alien who was unlawfully present in the United States for more than one year and seeks admission within ten years after his last departure.<sup>1</sup>

### *Conclusion*

The petitioner failed to submit the victim statement and, beyond the director's decision, the Form I-918 Supplement B did not contain an original signature.<sup>2</sup> The petitioner is also inadmissible to the United States and his request for a waiver of inadmissibility was denied. The petitioner is consequently ineligible for nonimmigrant classification pursuant to section 101(a)(15)(U)(i) of the Act and the appeal must be dismissed. 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). Here, that burden has not been met.

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

---

<sup>1</sup> The petitioner admitted to making false statements in an interview in regard to the filing of a Petition to Remove Conditions on Residence (Form I-751). The petitioner was ordered removed from the United States *in absentia* on May 29, 2001. All subsequent appeals and motions, as well as stays of removal were dismissed or denied. The petitioner was present in the United States from May 19, 1999, the date on which his conditional residence was terminated until May 27, 2009, the date on which he was removed from the United States.

<sup>2</sup> An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9<sup>th</sup> Cir. 2003).