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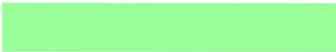
U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



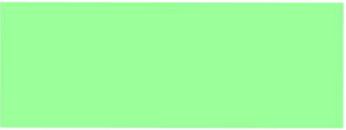
U.S. Citizenship  
and Immigration  
Services



Date: **AUG 22 2013** Office: VERMONT SERVICE CENTER FILE: 

IN RE: PETITIONER: 

APPLICATION: 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 (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

  
Ron Rosenberg  
Chief, Administrative Appeals Office

Page 2

**DISCUSSION:** The Director, Vermont Service Center (the director), denied the U nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected and 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.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days of service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.8(b). The date of filing is not the date of mailing, but the date of actual receipt. *See* 8 C.F.R. § 103.2(a)(7)(i). An appeal that is not signed will be rejected. *Id.*

The record reflects that the director sent the decision on October 24, 2012, and he properly gave notice to the petitioner that she had 33 days to file an appeal. Neither the Act nor the pertinent regulations grant the AAO authority to extend this time limit. The petitioner initially submitted the Notice of Appeal or Motion (Form I-290B) on November 30, 2012<sup>1</sup>; however, the director rejected the appeal because neither counsel nor the petitioner signed the Form I-290B. The appeal was not received by the service center as properly filed until December 26, 2012, or 63 days after the decision was issued. Accordingly, the appeal was untimely filed and must be rejected. *See* 8 C.F.R. § 103.2(a)(7)(iii) (A benefit request that is rejected will not retain a filing date).

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) provides that, if an untimely appeal meets the requirements of a motion to reopen as described in 8 C.F.R. § 103.5(a)(2) or a motion to reconsider as described in 8 C.F.R. § 103.5(a)(3), the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the Director of the Vermont Service Center. *See* 8 C.F.R. § 103.5(a)(1)(ii). The director determined that the late appeal did not meet the requirements of a motion and forwarded the matter to the AAO. As the appeal was untimely filed, the appeal must be rejected.<sup>2</sup>

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

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<sup>1</sup> Even though counsel dated the appeal November 25, 2012, it was initially received 37 days after the decision was issued.

<sup>2</sup> Even if the appeal had been timely filed, the appeal would have been summarily dismissed as the petitioner fails to identify any specific, erroneous conclusion of law or statement of fact in the director's decision. On appeal, counsel indicates that a brief and other evidence, including a Form I-918 Supplement B with certification, would be submitted within 30 days. As of the date of this decision, no additional statements, evidence, or Form I-918 Supplement B have been submitted regarding this appeal, and counsel provides no legal or factual basis for the appeal. Consequently, had the appeal been timely filed, it would have been summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v). However, the denial of the petitioner's instant Form I-918 U petition is without prejudice to the filing of a new Form I-918 U petition with a Form I-918 Supplement B that meets the requirements of the regulation at 8 C.F.R. § 214.14(c)(2)(i).