



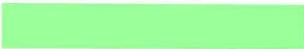
**U.S. Citizenship
and Immigration
Services**

(b)(6)



Date: **FEB 21 2013**

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:

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.

Thank you,



Ron Rosenberg
Acting Chief, Administrative Appeals Office

(b)(6)

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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 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. The director denied the U visa petition because the petitioner failed to submit a *U Nonimmigrant Status Certification* (Form I-918 Supplement B).

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). Regarding receipt dates for applications and petitions, the regulation at 8 C.F.R. § 103.2(a)(7)(i) provides, in pertinent part: "A benefit request which is not signed and submitted with the correct fee(s) will be rejected." A benefit request which is rejected will not retain a filing date. 8 C.F.R. § 103.2(a)(7)(ii).

The record indicates that the director issued the decision on May 30, 2012, and he properly gave notice to the petitioner that he had 33 days to file the 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 June 25, 2012; however, the director rejected the appeal because it was not filed with the proper fee. The appeal was not received by the service center as properly filed until July 23, 2012, or 54 days after the decision was issued. Accordingly, the appeal was untimely filed and must be rejected.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, 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.

ORDER: The appeal is rejected. The petition remains denied.¹

¹ Even if the appeal was timely, it would have been dismissed because although the petitioner submits a Form I-918 Supplement B on appeal, the Form is not signed or executed by a certifying official. 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).