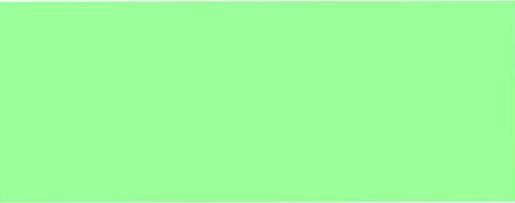


(b)(6)

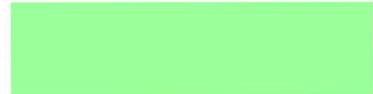
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

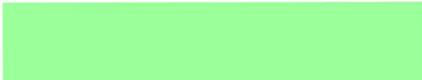


Date: Office: VERMONT SERVICE CENTER FILE:

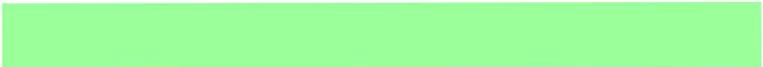


MAY 14 2013

IN RE: PETITIONER:
BENEFICIARY:



AKA:



PETITION: Petition for a Qualifying Family Member of a U Nonimmigrant Pursuant to Section 101(a)(15)(U)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(U)(ii)

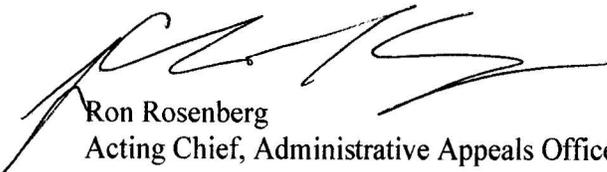
ON BEHALF OF PETITIONER:



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.

Thank you,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director of the Vermont Service Center (the director) approved the petitioner's U nonimmigrant status petition (Form I-918 U petition) but denied the Petition for Qualifying Family Member of a U-1 Recipient (Form I-918 Supplement A) submitted by the petitioner on behalf of the beneficiary. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner seeks nonimmigrant classification of the beneficiary under section 101(a)(15)(U)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(U)(ii), as a qualifying family member of a U nonimmigrant. The director found the beneficiary ineligible as a qualifying family member of a U-1 nonimmigrant because he is inadmissible to the United States under the following sections of the Act: 212(a)(2)(A)(i) (crime involving moral turpitude); 212(a)(6)(A) (aliens present without permission or parole); and 212(a)(7)(B)(i)(I) (not in possession of a valid passport).

The beneficiary, through counsel, appealed the director's decision to deny the Form I-918 Supplement A by signing the Notice of Entry of Appearance as Attorney or Representative (Form G-28) that counsel submitted along with the Notice of Appeal (Form I-290B). The director's denial decision was dated February 12, 2013, and U.S. Citizenship and Immigration Services (USCIS) received the appeal on April 1, 2013.

The appeal will be rejected for two reasons.

First, the beneficiary of a visa petition is not an affected party and may not submit an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). Second, an appeal is properly filed when it is submitted to USCIS within 33 days of service of the unfavorable decision by mail. 8 C.F.R. §§ 103.3(a)(2)(i); 103.8(b). Here, the appeal was filed 48 days after the director's denial decision, and the director determined that the late appeal did not meet the requirements of a motion to reopen or reconsider by forwarding the matter to the AAO. Consequently, the appeal must be rejected for these two reasons. 8 C.F.R. §§ 103.3(a)(2)(v)(A)(I), (v)(B).¹

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

¹ Even if the appeal had been properly filed, it would have been dismissed. The beneficiary does not dispute that he is inadmissible on the grounds noted by the director and counsel's only arguments on appeal relate to why the director should favorably exercise his discretion and grant the Application for Advance Permission to Enter as a Nonimmigrant (Form I-192). There is no appeal of a decision to deny a Form I-192. 8 C.F.R. § 212.17(b)(3). Because the AAO does not have jurisdiction to review whether the director properly denied the Form I-192, the AAO does not consider whether approval of the waiver application should have been granted. The AAO may only review whether the director was correct in finding the petitioner to be inadmissible and, therefore, requiring an approved Form I-192 pursuant to 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv).