(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: NOV 13 2013 Office: VERMONT SERVICE CENTER FILE:

IN RE: PETITIONER:
BENEFICIARY:

PETITION: Petition for a Qualifying Family Member 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 (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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO**.

Thank you,

for Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center (the director), denied the Petition for Qualifying Family Member of a U-1 Recipient (Form I-918 Supplement A) submitted by the petitioner on behalf of her stepchild and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The petitioner filed a second appeal which was rejected for lack of jurisdiction. The matter is again before the AAO on motion to reopen and reconsider. The motion will be dismissed and the underlying petition will remain denied.

The petitioner seeks nonimmigrant classification of her beneficiary under section 101(a)(15)(U)(ii) of the Immigration and Nationality Act (the Act), as a qualifying family member of a U-1 nonimmigrant.

The director denied the Form I-918 Supplement A filed by the petitioner on behalf of her stepdaughter because the petitioner's Form I-918, Petition for U Nonimmigrant Status (Form I-918 U petition), was denied. The petitioner's first appeal was dismissed by the AAO. The petitioner, through counsel, filed a second appeal. The AAO rejected the appeal for lack of jurisdiction because no appeal lies from the AAO's dismissal of the prior appeal. In addition, the AAO determined that even if the petitioner had properly filed a motion to reopen or reconsider, it would have been summarily dismissed because counsel failed to state a basis for the motion. The petitioner, through counsel, timely filed the instant motion to reopen and reconsider with the AAO.

The regulation at 8 C.F.R. § 103.5(a) states, in pertinent part:

* * *

> (2) *Requirements for motion to reopen.* A motion to reopen must state the new facts to be proved in the reopened proceedings and be supported by affidavits or other documentary evidence. . . .
>
> (3) *Requirements for motion to reconsider.* A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. . . .

* * *

The petitioner has failed to meet either the requirements for a motion to reopen or a motion to reconsider. Counsel indicated on the Notice of Motion (Form I-290B) that a brief and additional evidence were attached. However, the only additional evidence attached to the Form I-290B was a Form I-912 and the beneficiary's tax documents for 2012. Counsel left blank Part 3 of the Form I-290B regarding the basis for the motion. Counsel failed to submit new evidence relevant to the petition or state any new facts to be proved, thus the motion to reopen must be dismissed. *See* 8 C.F.R. § 103.5(a)(2).

On motion, counsel cites no relevant precedent decisions or binding caselaw to show that the AAO's prior decision on this petition erroneously applied the pertinent law or United States Citizenship and Immigration Service (USCIS) policy as required. Consequently, the motion to reconsider must be dismissed for failing to meet applicable requirements. 8 C.F.R. § 103.5(a)(3)-(4).

ORDER: The motion is dismissed. The petition remains denied.