

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

(b)(6)

Date: JUL 09 2014 Office: VERMONT SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Petition for a Qualifying Family Member of a U-1 Recipient 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.

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

NON-PRECEDENT DECISION

DISCUSSION: The Director, Vermont Service Center (the director), granted the petitioner's U nonimmigrant status petition (Form I-918 U petition) and 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 child. The matter is now before the Administrative Appeals Office (AAO) on appeal. The director's decision shall be withdrawn and the matter remanded for entry of a new decision.

The petitioner seeks nonimmigrant classification of her child 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 denied the petitioner's Form I-918 Supplement A because the form was received by the Service Center on June 16, 2011, the same day that the petitioner's son turned 21 years of age. The director found that as such, the petitioner's son was no longer a "child" under section 101(b)(1) of the Act and did not meet the definition of a qualifying family member at the time the Form I-918 Supplement A was filed on his behalf.

On appeal, counsel submits evidence that the petitioner's Form I-918 Supplement A was received by the Service Center on June 15, 2011, the day before the petitioner's son turned 21 years of age. The petitioner has, therefore, established that her son may be classified as a qualifying family member under section 101(a)(15)(U)(ii) of the Act. *See Violence Against Women Reauthorization Act of 2013, Public Law No. 113-4 (VAWA 2013), which came into effect on March 7, 2013 (providing retroactive age-out protection to child derivatives).*

The record does, however, show that the beneficiary is inadmissible to the United States under subsection 212(a)(6)(A)(i) of the Act for being present in the United States without admission or parole. For U nonimmigrant status in particular, 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 order to waive a ground of inadmissibility. Here, the director denied the beneficiary's Form I-192 solely on the basis of the denial of the Form I-918 Supplement A petition. We have no jurisdiction to review the denial of a Form I-192 submitted in connection with a U petition. 8 C.F.R. § 212.17(b)(3). However, as the sole ground for denial of the beneficiary's Form I-192 has been overcome on appeal, we will return the matter to the director for reconsideration of the Form I-192.

ORDER: The director's decision is withdrawn and the matter is returned to the director for reconsideration of the beneficiary's Form I-192 and issuance of a new decision on the petitioner's Form I-918 Supplement A petition, which if adverse to the petitioner shall be certified to the Administrative Appeals Office for review.