

(b)(6)

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

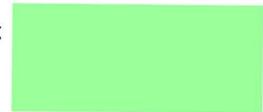


U.S. Citizenship
and Immigration
Services



Date: **JUN 02 2014** Office: VERMONT SERVICE CENTER

FILE:

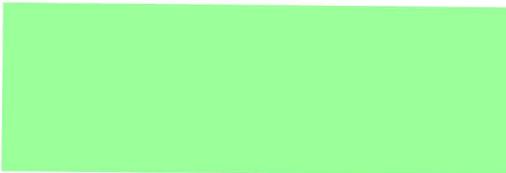


IN RE: Petitioner:



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:



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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

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 The director's decision will be withdrawn and the matter remanded for entry of a new decision.

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 petition because the petitioner did not submit a properly executed Form I-918 Supplement B, U Nonimmigrant Status Certification (Form I-918 Supplement B), nor did she establish the eligibility criteria at section 101(a)(15)(U)(i) of the Act. On appeal, counsel submits a brief, an updated Form I-918 Supplement B, and additional evidence.

The petitioner is a native and citizen of Mexico who claims to have entered the United States in October 2005 without inspection, admission or parole. The petitioner filed the instant Form I-918, Petition for U Nonimmigrant Status (Form I-918 U petition) on April 23, 2012 with a photocopy of a Form I-918 Supplement B dated October 19, 2011. On the same day, she filed an Application for Advance Permission to Enter as a Nonimmigrant (Form I-192). On May 20, 2013, the director issued a Request for Evidence (RFE) requesting the original Form I-918 Supplement B with the signature of a person who is recognized as a certifying official or a newly executed Form I-918 Supplement B. On September 11, 2013, the director denied the petition because the petitioner failed to submit a properly executed Form I-918 Supplement B. On the same day, the director denied the Form I-192. The petitioner, through counsel, timely appealed the denial of the Form I-198 U petition.

On appeal, counsel explains that in response to the RFE, she submitted a newly certified original Form I-918 Supplement B signed by a certifying official; however, it must have been misplaced. Counsel submits another Form I-918 Supplement B on appeal.

According to the evidence in the record, on June 10, 2013, the Vermont Service Center received a newly executed Form I-918 Supplement B, dated May 27, 2013. However, the Form I-918 Supplement was not included in the record at the time the director made a final decision on the petition, but it is has since been incorporated into the record. As the petitioner submitted a newly executed Form I-918 Supplement B in response to the director's RFE and the director's denial did not address this new Form I-918 Supplement B, the matter must be remanded to the director for issuance of a new decision on the Form I-918 U petition. If the decision is adverse to the petitioner, it shall be certified to the AAO for review. As in all visa proceedings, the petitioner bears the burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013).

ORDER: The director's decision is withdrawn. The matter is returned to the director for issuance of a new decision on the Form I-918 U petition, which if adverse to the petitioner shall be certified to the AAO for review.