



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

(b)(6)



DATE: **APR 17 2015**

FILE #: [REDACTED]

PETITION RECEIPT #: [REDACTED]

IN RE: Petitioner: [REDACTED]

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:

NO REPRESENTATIVE OF RECORD

For the reasons stated herein, the Administrative Appeals Office (AAO) has rejected your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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 petition and the Administrative Appeals Office (AAO) dismissed the subsequent appeal. The matter is now before the AAO on motion to reopen. The motion will be dismissed.

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.

In order to properly file a motion to reopen, the regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the affected party or the attorney or representative of record must file the complete motion to reopen within 30 days of service of the unfavorable decision. If the decision was mailed, the motion must be filed within 33 days. *See* 8 C.F.R. § 103.8(b). The date of filing is not the date of mailing, but the date of actual receipt. *See* 8 C.F.R. § 103.2(a)(7)(i).

On October 29, 2012, the director denied the Petition for U Nonimmigrant Status (Form I-918 U petition) because the petitioner failed to submit a properly executed U Nonimmigrant Status Certification (Form I-918 Supplement B), or establish the eligibility criteria at subsections 101(a)(15)(U)(i)(I) – (IV) of the Act. The petitioner timely filed an appeal. We dismissed the appeal on April 23, 2013, and properly notified her that she had 30 days to file a motion.

The petitioner dated the Notice of Appeal or Motion (Form I-290B) April 20, 2014, and the service center did not receive it until June 10, 2014, or 413 days after the decision was issued. Neither the Immigration and Nationality Act nor the pertinent regulations grant us authority to extend this time limit. However, the regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the 30 days “may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and was beyond the control of the . . . petitioner.”

On motion, the petitioner states that it was difficult for her to obtain a renewal of her law enforcement certification form and that she filed it late to the wrong address so it was returned. She claims that she has submitted all the requested documents and requests that her U nonimmigrant visa application be reopened. We note that the cover sheet on our April 23, 2013, decision clearly states the requirements for filing a motion and references the specific regulation that outlines these requirements. We find that the petitioner has not demonstrated that the delay in filing the motion to reopen was beyond her control and that the delay was reasonable. As the motion to reopen was untimely filed, the motion to reopen must be dismissed for failing to meet applicable requirements. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.