



U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **AUG 05 2015**

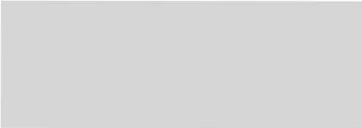
FILE #:

PETITION RECEIPT #:

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:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director of the Vermont Service Center (the director) denied the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal 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.

The director denied the Petition for U Nonimmigrant Status (Form I-918 U petition) because the petitioner was inadmissible to the United States and her Application for Advance Permission to Enter as a Nonimmigrant (Form I-192 waiver) was denied. The petitioner timely appealed the denial of the Form I-918 U petition on May 2, 2015, indicating at Part 3 of the Notice of Appeal (Form I-280B) that she would submit a brief to our office within 30 days. On May 28, 2015, the petitioner's counsel requested an extension of the time to file a brief, and on June 23, 2015 we approved counsel's request and notified him that his extension was granted until July 23, 2015. As of the date of his decision, we have not received a brief or other evidence from the petitioner or counsel.

Section 101(a)(15)(U)(i) of the Act provides for U nonimmigrant classification to alien victims of certain criminal activity who assist government officials in investigating or prosecuting such criminal activity. Section 212(d)(14) of the Act requires U.S. Citizenship and Immigration Services (USCIS) to determine whether any grounds of inadmissibility exist when adjudicating a Form I-918 U petition and provides USCIS with the authority to waive certain grounds of inadmissibility as a matter of discretion. The petitioner bears the burden of establishing that he or she is admissible to the United States or that any grounds of inadmissibility have been waived. *See* 8 C.F.R. § 214.1(a)(3)(i). For aliens seeking U nonimmigrant status who are inadmissible to the United States, the regulations at 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv) require the filing of a Form I-192 waiver in conjunction with a Form I-918 U petition in order to waive any ground of inadmissibility.

In her attachment to the Form I-290B, the petitioner states that the approval of her U petition should not be dependent on having an approved waiver application because her convictions "should have been vacated by the state courts for violation of procedural or due process rights." In denying the Form I-192 waiver, the director found the petitioner inadmissible under sections 212(a)(2)(A)(i)(I) (crime involving moral turpitude) and 212(a)(6)(A)(i) (present in the United States without permission or parole) of the Act.

We do not have jurisdiction to review whether the director properly denied the Form I-192, so we do not consider whether the waiver application should have been granted. *See* 8 C.F.R. § 212.17(b)(3) ("There is no appeal of a decision to deny a waiver."). The only issue that may come before us is whether the director was correct in finding the petitioner inadmissible to the United States and, therefore, requiring an approved Form I-192 pursuant to 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv).

The petitioner does not dispute that she is admissible for being present in the United States without permission or parole. Although she briefly states that her convictions “should have been vacated” she has not provided any evidence to demonstrate that her convictions were vacated or that they do not qualify as crimes of moral turpitude. She is, therefore, inadmissible under sections 212(a)(2)A(i)(I) (crime involving moral turpitude) and 212(a)(6)(A)(i) (present in the United States without permission or parole) of the Act. As we previously noted, the petitioner did not file a brief or other evidence despite being provided additional time to do so, and we have no jurisdiction to review whether the director’s decision to deny the Form I-192 was proper.

Although the petitioner appears to have met the statutory eligibility requirements for U nonimmigrant classification, she has not established that she is admissible to the United States or that her grounds of inadmissibility have been waived. She is consequently ineligible for nonimmigrant classification under section 101(a)(15)(U)(i) of the Act, pursuant to 8 C.F.R. § 214.1(a)(3)(i).

**ORDER:** The appeal is dismissed. The petition remains denied.