



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **AUG 10 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,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center (the director), denied the nonimmigrant visa petition. The Administrative Appeals Office (AAO) denied various subsequent motions. The matter is now before the AAO again on a motion to reopen or reconsider. The motion will be denied.

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 or reconsider, 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 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). There is no exception to the filing deadline for a motion to reconsider. 8 C.F.R. § 103.5(a)(1)(i). Failure to timely file a motion to reopen may be excused if it is demonstrated that the delay was reasonable and was beyond the control of the petitioner. *Id.*

We denied the petitioner's most recent motion on July 18, 2014, and properly notified the petitioner that he had 30 days to file another motion. Here, the Notice of Motion (Form I-290B) was not received by the service center until September 5, 2014, or 49 days after the decision was issued. Accordingly, the motion was untimely filed.

There is no exception to the filing deadline for a motion to reconsider, and the petitioner has not demonstrated that the delay was unreasonable and beyond his control in order to excuse the untimely filing of the motion to reopen. As such, the motion to reopen or reconsider is untimely and must be denied.

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