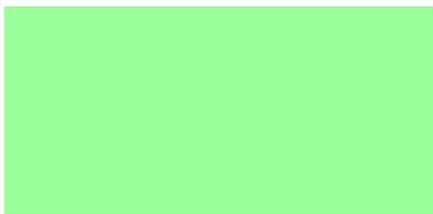


(b)(6)

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



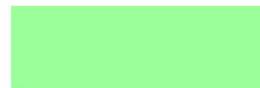
U.S. Citizenship  
and Immigration  
Services



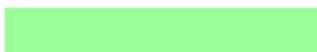
DATE: FEB 12 2015

OFFICE: VERMONT SERVICE CENTER

FILE:

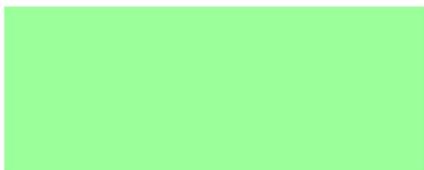


IN RE: Petitioner:



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 or establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

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

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Acting 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 appeal will be dismissed. The petition will remain denied.

The petitioner seeks nonimmigrant classification under section 101(a)(15)(U)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(U)(i), as an alien victim of certain qualifying criminal activity.

The director denied the Form I-918, Petition for U Nonimmigrant Status (Form I-918 U petition), because the petitioner was inadmissible to the United States and her Form I-192, Application for Advance Permission to Enter as a Nonimmigrant (Form I-192 waiver application), had been denied. The petitioner timely appealed the denial of the Form I-918 U petition. She also filed a second Form I-192 waiver application, which the director denied based on the denial of the Form I-918 U petition. On appeal, the petitioner does not contest her inadmissibility on the stated grounds. Instead, she submits a brief and additional evidence to support her assertion that the director should favorably exercise discretion and approve the Form I-192 waiver application.

#### *Applicable Law*

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 she is admissible to the United States or that any grounds of inadmissibility have been waived. 8 C.F.R. § 214.1(a)(3)(i).

An inadmissible alien who seeks U nonimmigrant status must file a Form I-192 waiver application in conjunction with a Form I-918 U petition in order to waive any ground of inadmissibility. 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv). The regulation at 8 C.F.R. § 212.17(b)(3) states, in pertinent part, “There is no appeal of a decision to deny a waiver.” Therefore, we do not have jurisdiction to review whether the director properly denied the Form I-192 waiver application. We can only determine whether the director was correct in finding the petitioner inadmissible to the United States and requiring an approved Form I-192 waiver application pursuant to 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv).

*Facts and Procedural History*

The petitioner is a native and citizen of Guatemala who claims to have entered the United States in August 1985 without inspection, admission, or parole. On December 19, 2012, she filed the instant Form I-918 U petition, along with a Form I-918 Supplement B, U Nonimmigrant Status Certification. On the same date, she filed her first Form I-192 waiver application. On October 31, 2013, the director issued a Request for Evidence (RFE) that the petitioner was eligible for a waiver of inadmissibility in the exercise of discretion. The petitioner responded to the RFE by filing an affidavit, criminal court dispositions, copies of relevant legal statutes, correspondence from law enforcement agencies, and letters of support.

The director denied the Form I-192 waiver application, finding that the petitioner was inadmissible under sections 212(a)(2)(A)(i)(II) (controlled substance conviction), 212(a)(2)(A)(i)(I) (crimes involving moral turpitude), 212(a)(6)(A)(i) (present without admission or parole), and 212(a)(7)(B)(i)(I) (nonimmigrant not in possession of a valid passport). After reviewing the evidence, the director found that the petitioner had failed to demonstrate that she warranted a favorable exercise of discretion. Based on the petitioner's inadmissibility and the denial of her Form I-192 waiver application, the director also denied the petitioner's I-918 U petition.

*Analysis*

We conduct appellate review on a *de novo* basis. On appeal, the petitioner does not dispute that she is inadmissible to the United States on the grounds cited in the director's denial. Instead, she asserts that the director's decision denying her Form I-192 waiver application was erroneous and that she merits a favorable exercise of discretion. Accordingly, she contends that her Form I-192 waiver application and Form I-918 U petition should be granted. However, we have no jurisdiction to review the denial of a Form I-192 waiver application submitted in connection with a Form I-918 U petition. 8 C.F.R. § 212.17(b)(3).

*Conclusion*

In visa petition proceedings, it is the petitioner's 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). 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. 8 C.F.R. § 214.1(a)(3)(i).

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