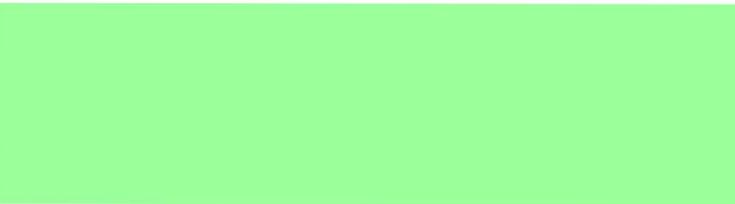


(b)(6)

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

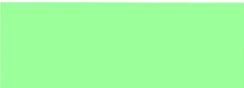


U.S. Citizenship
and Immigration
Services

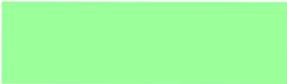


Date: FEB 18 2015

Office: VERMONT SERVICE CENTER

FILE: 

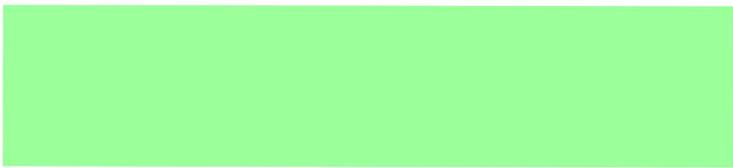
IN RE:

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 nor 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 and the petition will remain 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.

The director determined that the petitioner was statutorily eligible for U non-immigrant status, but denied the petition due to the petitioner’s inadmissibility and the denial of the petitioner’s waiver of inadmissibility.

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, Petition for U Nonimmigrant Status (Form I-918 U petition), and provides USCIS with the authority to waive certain grounds of inadmissibility as a matter of discretion.

Section 212(a) of the Act sets forth the grounds of inadmissibility to the United States, and states, in pertinent part:

(2) Criminal and Related Grounds

(A) Conviction of Certain Crimes

(i) In General.-Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of –

(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime . . .

* * *

is inadmissible.

(7) Documentation requirements.-

* * *

(B) Nonimmigrants.-

(i) In general.-Any nonimmigrant who-

- (I) Not in possession of a passport valid for a minimum of six months from the date of expiration . . .

* * *

is inadmissible.

Facts and Procedural History

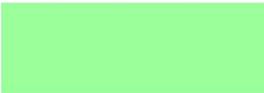
The petitioner is a native and citizen of Nigeria who claims to have entered the United States on September 9, 1995 as a lawful permanent resident.¹ The petitioner filed the instant Form I-918 U petition on May 15, 2013. On August 5, 2013, the director issued a Request for Evidence (RFE) noting that the petitioner was inadmissible to the United States and requesting, in part, that the petitioner submit a copy of his arrest report, court documents demonstrating the final disposition, and the relevant state law showing the maximum possible penalty for each charge for which the petitioner was arrested and/or convicted. The petitioner responded, in part, with copies of his criminal arrest/complaint reports, certificates of disposition, and information about the laws under which he was convicted. On February 7, 2014, the director found the petitioner's response insufficient to overcome his grounds of inadmissibility and denied the Form I-192. The director determined that the petitioner was inadmissible under sections 212(a)(2)(A)(i)(I) (conviction of a crime involving moral turpitude) and 212(a)(7)(B)(i)(I) (nonimmigrant without a valid passport) of the Act. The director denied the petitioner's Form I-918 U petition on the same day. Although the director determined that the petitioner was statutorily eligible for U nonimmigrant status, he denied the Form I-918 U petition, because the petitioner was inadmissible to the United States and his Form I-192 waiver of inadmissibility was denied. The petitioner appealed the denial of the Form I-918 U petition.

On appeal, the petitioner does not dispute that he is inadmissible to the United States but claims that if he is removed to Nigeria, his family in the United States will suffer extreme and unusual hardship.

Analysis

All nonimmigrants must establish their admissibility to the United States or show that any grounds of inadmissibility have been waived. 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 in conjunction with a Form I-918 U petition in order to waive any ground of inadmissibility. 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." As we do not have jurisdiction to review whether the director properly denied the Form I-192, we do not consider whether approval of the Form I-192 should have been granted. The

¹ The record demonstrates that the petitioner entered the United States pursuant to a P-3 non-immigrant visa as an artist or entertainer coming to be part of a culturally unique program. A Form I-130 petition for an alien relative was approved on September 11, 1997, but the accompanying Form I-485 Application to Register Permanent Residence or Adjust Status was terminated in 2001. As a result, there is no evidence in the record that the petitioner is currently or has ever been a lawful permanent resident.



only issue 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).

A full review of the record supports the director's determination that the petitioner is inadmissible under sections 212(a)(2)(A)(i)(I) (conviction of a crime involving moral turpitude) and 212(a)(7)(B)(i)(I) (not in possession of a valid passport) of the Act. The petitioner does not dispute that he has been convicted of a crime involving moral turpitude, and he has not provided a copy of a valid passport. As such the petitioner is inadmissible under sections 212(a)(2)(A)(i)(I) and 212(a)(7)(B)(i)(I) of the Act.

On appeal, the petitioner does not contest his grounds of inadmissibility but instead focuses on why the director should have favorably exercised his discretion because of the hardships suffered by his family and approved his Form I-192 waiver request. The director denied the petitioner's application for a waiver of inadmissibility, and we have no jurisdiction to review the denial of a Form I-192 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 has met the statutory eligibility requirements for U nonimmigrant classification, he has not established that he is admissible to the United States or that his grounds of inadmissibility have been waived. He 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.