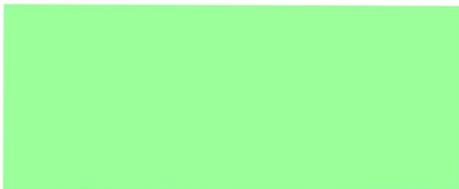


(b)(6)



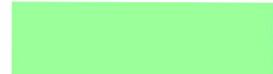
U.S. Citizenship
and Immigration
Services



Date: JAN 06 2015

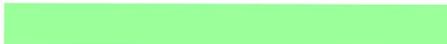
Office: VERMONT SERVICE CENTER

FILE:



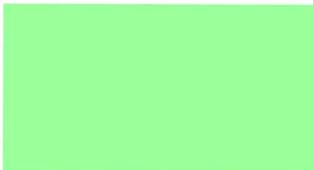
IN RE:

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.

Thank you,

for 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 The director's decision will be withdrawn and the matter returned for entry of a new decision.

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.

Section 101(a)(15)(U)(i) of the Act provides for U nonimmigrant classification to alien victims of certain qualifying criminal activity who assist law enforcement officials in their investigation or prosecution of the qualifying crime(s). The regulatory definition of "victim" includes parents of a direct victim under the age of 21 if "the direct victim is . . . incompetent or incapacitated, and therefore unable to provide information concerning the criminal activity or be helpful in the investigation or prosecution of the criminal activity." See 8 C.F.R. § 214.14(a)(14)(i).¹

The director denied the petition because the direct victim, the petitioner's adult daughter, was over 21 years of age when the qualifying criminal activity occurred. On appeal, the petitioner asserts that he is an indirect victim of qualifying criminal activity because the direct victim, his adult daughter, is incapacitated and most of the criminal activity occurred when she was under 21 years of age.

We note that the director did not issue a Request for Evidence (RFE) that the petitioner suffered substantial physical or mental abuse as a result of the domestic violence committed against his daughter, that the petitioner was directly or proximately harmed by the qualifying criminal activity, and that the petitioner is admissible to the United States. In addition, the director's decision denying the petition did not address whether the direct victim, the petitioner's adult daughter, is incapacitated or incompetent and therefore unable to provide information to the certifying agency or be helpful in the investigation of the crime against her.² As these issues were not addressed in the director's decision, we withdraw the director's decision and remand the matter to the director for further action and issuance of a new decision.

ORDER: The director's November 5, 2013, decision is withdrawn. The matter is returned to the director for issuance of a new decision on the Form I-918 U petition, which if adverse to the petitioner shall be certified to the Administrative Appeals Office for review.

¹ The term "indirect victims" is discussed in the Preamble to the U visa rule. See 72 Fed. Reg. 53014, 53017 (Sept. 17, 2007).

² Family members who are recognized as indirect victims are eligible to apply for U nonimmigrant status as principal petitioners, but they must meet all of the eligibility requirements that the direct victim would have had to meet in order to be accorded U nonimmigrant status.