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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: **JUL 29 2015**

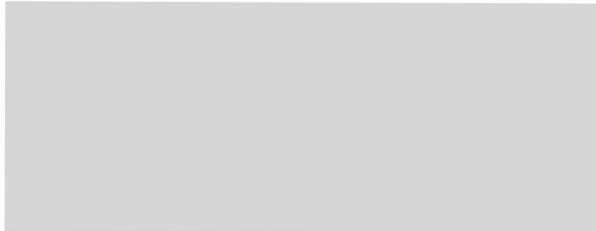
FILE #: [REDACTED]

PETITION #: [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:



INSTRUCTIONS:

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, 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 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.

### *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. 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. 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 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).

### *Facts and Procedural History*

The petitioner is a native and citizen of Mexico who was removed from the United States on February 24, 2010 and currently resides in Mexico. The petitioner filed the instant Form I-918 U petition as well as an Application for Advance Permission to Enter as Nonimmigrant (Form I-192) on November 4, 2011.

On November 5, 2014, the director found, as a matter of discretion, that the petitioner did not merit a waiver of the applicable grounds of inadmissibility and denied the Form I-192. The director determined that the petitioner was inadmissible under sections 212(a)(6)(C)(ii) (false claim to U.S. citizenship), 212(a)(7)(B)(i)(I) (nonimmigrant without a valid passport), 212(a)(9)(A)(i) (alien previously removed, as an arriving alien), 212(a)(9)(A)(ii) (alien

previously removed, other than as an arriving alien), 212(a)(9)(C)(i)(I) (alien unlawfully present for one year in the aggregate and who entered or attempted to enter without being admitted), and 212(a)(9)(C)(i)(II) (alien previously ordered removed and who entered or attempted to enter without being admitted) of the Act. On December 5, 2014, the director denied the petitioner's Form I-918 U petition. Although the director determined that the petitioner was statutorily eligible for U nonimmigrant status, the director denied the Form I-918 U petition because the petitioner was inadmissible to the United States and the 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 she is inadmissible to the United States but claims that her life and her daughter's life would be improved immensely if the Form I-192 was approved and, with respect to inadmissibility under section 212(a)(6)(A) of the Act (present without admission or parole), which was not raised by the director in the decision denying the Form I-192, and section 212(a)(6)(C)(ii) of the Act (false claim to U.S. citizenship), that she acted under duress from her abusive husband.

#### *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 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)(6)(C)(ii) (false claim to U.S. citizenship), 212(a)(7)(B)(i)(I) (nonimmigrant without a valid passport), 212(a)(9)(A)(i) (alien previously removed, as an arriving alien), 212(a)(9)(A)(ii) (alien previously removed, other than as an arriving alien), 212(a)(9)(C)(i)(I) (alien unlawfully present for one year in the aggregate and who entered or attempted to enter without being admitted), and 212(a)(9)(C)(i)(II) (alien previously ordered removed and who entered or attempted to enter without being admitted) of the Act. The petitioner does not dispute that she made a false claim to U.S. citizenship, that she lacked a valid passport, that she was previously removed both as an arriving alien and other than as an arriving alien, that she was unlawfully present in the United States for longer than one year, and that she seeks to enter the United States without being admitted after being previously removed.

On appeal, the petitioner does not contest the grounds of inadmissibility but instead focuses on why the director should have favorably exercised discretion because of the hardships suffered by the petitioner and her family and approved the Form I-192 waiver request. In particular, the petitioner contends, with respect to inadmissibility under section 212(a)(6)(A) of the Act (present without admission or parole), which was not raised by the director in the decision denying the Form I-192, and section 212(a)(6)(C)(ii) of the Act (false claim to U.S. citizenship), that she acted under duress from her abusive husband. The director denied the petitioner's application for a waiver of inadmissibility after considering whether granting the waiver would be in the national or public interest 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, she has not established that she is admissible to the United States or that the relevant 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.