



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE:

JUN 03 2015

FILE #:



(Petitioner)

(Beneficiary)

APPEAL RECEIPT #:



IN RE:

Petitioner:

Beneficiary:



PETITION:

Petition for Qualifying Family Member of U-1 Recipient Pursuant to Section 101(a)(15)(U)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(U)(ii)

ON BEHALF OF PETITIONER:



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) 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

[Redacted] (Petitioner)
[Redacted] (Beneficiary)

NON-PRECEDENT DECISION

Page 2

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.

The petitioner seeks nonimmigrant classification of the beneficiary under section 101(a)(15)(U)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(U)(ii), as a qualifying family member of a U-1 nonimmigrant.

The director denied the Petition for Qualifying Family Member of a U-1 Recipient (Form I-918 Supplement A) because the beneficiary did not meet the definition of “child” and could not be considered a qualifying family member. On appeal, the petitioner submits a brief, additional evidence and copies of documents already included in the record.

Applicable Law

Section 101(a)(15)(U) of the Act provides for U nonimmigrant classification to victims of certain criminal activity (U principals) and their qualifying family members. *See* Section 101(a)(15)(U)(ii)(II) of the Act; 8 C.F.R. § 214.14(a)(10). A *child* is an unmarried person under the age of twenty-one. *See* Section 101(b)(1) of the Act.

A U principal may seek U nonimmigrant status for a child through the filing of a derivative petition. The relationship between the U principal and his or her child must exist at the time the U principal properly files his or her own U petition. Marriage disqualifies a son or daughter from meeting the definition of child at section 101(b)(1) of the Act even if the age requirement is met. *See* USCIS PM-602-0102, *Violence Against Women Reauthorization Act of 2013: Changes to U Nonimmigrant Status and Adjustment of Status Provisions* (June 15, 2014).

Facts and Procedural History

The beneficiary married in Niger on [Redacted] 2009. On [Redacted] 2012, when the beneficiary was twenty years old, the petitioner filed her own U petition seeking U-1 nonimmigrant status, and filed the beneficiary’s Form I-918 Supplement A on July 23, 2013. The director issued two Requests for Evidence (RFE) of the beneficiary’s divorce and a copy of her fingerprints. The petitioner responded with additional evidence. On September 22, 2014, the director denied the Form I-918 Supplement A because the beneficiary was married at the time the petitioner filed her own U petition and, therefore, could not be considered a child under section 101(b)(1) of the Act.¹ The petitioner appealed the denial of the Form I-918 Supplement A. On appeal, the petitioner claims that the beneficiary’s marriage was forced and invalid under the laws of Niger, as well as contrary to international conventions and U.S. public policy; therefore, she was a child when her mother sought U-1 status.

¹ The Director of the Vermont Service Center approved the petitioner’s U petition on October 14, 2014, granting her U-1 nonimmigrant status.

(Petitioner)
(Beneficiary)

NON-PRECEDENT DECISION

Page 3

Analysis

We conduct appellate review on a *de novo* basis. Based on the evidence in the record, we find no error in the director's decision to deny U-3 nonimmigrant status to the beneficiary.

On appeal, the petitioner explains that her daughter's forced marriage at 16 years old was payment for her uncle's debt and it "violated the laws of Niger and was invalid from the time of inception." The petitioner submitted no evidence that the beneficiary's marriage was determined to be invalid by any legal authority, or that under the laws of Niger, the marriage was considered invalid at its inception. *See Matter of Annang*, 14 I&N Dec. 502, 503 (BIA 1973) ("[T]he law of a foreign country is a question of fact which must be proved by the petitioner if [s]he relies on it to establish eligibility for an immigration benefit."). The record contains a copy of the beneficiary's divorce decree, dated in 2014, from the Court of Appeals of [REDACTED] Niger. Nothing in this decree demonstrates that the court considered the beneficiary's marriage to have been invalid at its inception or in violation of the laws of Niger. The court properly considered the beneficiary's petition for the dissolution of her marriage and subsequently dissolved her marriage after the applicable waiting period.

The petitioner claims further that because her daughter's marriage was forced to pay a debt, it is contrary to U.S. public policy. It is well established that even if valid where contracted, a marriage will not be recognized for immigration purposes if it is contrary to the public policy of the United States. *Matter of H-*, 9 I&N Dec. 640 (BIA 1962) (polygamous marriages will not be recognized, even if recognized in the jurisdiction where the marriage took place). However, the petitioner's statement that the beneficiary's marriage was forced to pay a debt is without support in the record. The petitioner did not submit her petition to the Court of Appeals for the dissolution of her marriage or any other evidence to demonstrate that the marriage was contracted to pay a debt.

Conclusion

The record shows that when the petitioner filed her own U petition in 2012 the beneficiary was married and consequently unable to be classified as a child under section 101(b)(1) of the Act. The beneficiary is, therefore, ineligible for U derivative status under section 101(a)(15)(U)(ii)(II) of the Act and the petition filed on her behalf must remain denied. 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). Here that burden has not been met.

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