(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: **JUN 3 0 2015**

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 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 webpage (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 Administrative Appeals Office (AAO) dismissed the subsequent appeal, a decision it affirmed in response to the petitioner's two prior motions to reconsider. The matter is again before the AAO on a third motion to reconsider. The motion will be denied.

The petitioner seeks nonimmigrant classification under section 101(a)(15)(U) of the Immigration and Nationality Act (the Act), as an alien victim of certain qualifying criminal activity. The director denied the Petition for U Nonimmigrant Status (Form I-918 U petition) because although the petitioner was statutorily eligible for U nonimmigrant status, she was inadmissible to the United States and her Application for Advance Permission to Enter as Nonimmigrant (Form I-192) was denied. We affirmed the director's decision on appeal, noting that the petitioner failed to establish that she was admissible to the United States or that her ground of inadmissibility under section 212(a)(2)(A)(i)(I) (convicted of a crime involving moral turpitude) of the Act was waived. The petitioner, through counsel, filed two prior motions to reconsider our decision. In response, we ultimately affirmed our determination that the petitioner is inadmissible to the United States for having been convicted of a crime involving moral turpitude.

The regulation at 8 C.F.R. § 103.5(a)(3) states, in pertinent part:

* * *

> *Requirements for motion to reconsider.* A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. . . .

* * *

On motion, counsel reiterates her assertions in the first motion that the petitioner's conviction for grand theft auto, in violation of section 487(d) of the California Penal Code (CPC), is not a crime involving moral turpitude. In addition, counsel claims that United States Citizenship and Immigration Services (USCIS) erred in determining that the petitioner's conviction for identity theft, in violation of CPC § 530.5(a), was a crime involving moral turpitude. In support of her claims, counsel submits a brief.

Counsel fails to establish that our March 25, 2013, August 22, 2013 and December 4, 2014 decisions were based on an incorrect application of law or USCIS policy as required, and she does not support her contentions with any pertinent precedent decisions. Counsel's assertions regarding CPC §§ 484 and 487(a) are the same that she made in her prior briefs, and which we addressed in our August 22, 2013 and December 4, 2014 decisions. Additionally, a review of that same August 22, 2013 decision does not show that we made a determination that a violation of CPC § 530.5(a) is a crime involving moral turpitude.[1] As such, the motion to reconsider must be denied for failing to meet applicable requirements. 8 C.F.R. § 103.5(a)(4).

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[1] On Page 5 of our August 22, 2013 decision, we briefly discussed, but made no determination, that a violation of CPC § 530.5(a) was a crime involving moral turpitude.

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 motion is denied. The petition remains denied.