



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF S-D-R-H-R-

DATE: OCT. 20, 2015

MOTION OF ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-918, PETITION FOR U NONIMMIGRANT STATUS

The Petitioner seeks nonimmigrant classification as a victim of certain qualifying criminal activity. *See* section 101(a)(15)(U) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(U). The Acting Director, Vermont Service Center, denied the petition. We dismissed the appeal in a decision dated March 6, 2014. The matter is now before us on a motion to reopen and a motion to reconsider. The motions will be denied.

The Director denied the Form I-918, Petition for U Nonimmigrant Status, because the Petitioner was inadmissible to the United States and her Form I-192, Application for Advance Permission to Enter as a Nonimmigrant, was denied. On appeal, the Petitioner argued that the Director erred in finding the Petitioner inadmissible under sections 212(a)(9)(B)(i)(II) and 212(a)(9)(C)(i)(I) of the Act, and that her Form I-192 waiver application should be approved in the exercise of discretion.

In our decision on appeal, we found that the Petitioner was not inadmissible under sections 212(a)(2)(A)(i)(II), 212(a)(9)(B)(i)(II), and 212(a)(9)(C)(i)(I) of the Act. We withdrew the Director's findings that the Petitioner was inadmissible on those grounds. However, we noted that the Petitioner did not assert on appeal that the Director erred in finding her inadmissible under sections 212(a)(6)(A)(i) and 212(a)(7)(B)(i)(I) of the Act. Furthermore, we indicated that, pursuant to 8 C.F.R. § 212.17(b)(3), we lack jurisdiction to review whether the Director properly denied the Form I-192 in the exercise of discretion.

On motion, the Petitioner again argues that she is not inadmissible under sections 212(a)(9)(B)(i)(II) and 212(a)(9)(C)(i)(I) of the Act and that her Form I-192 waiver application should be granted in the exercise of discretion. The Petitioner does not submit new evidence on motion, nor does she cite binding precedent decisions or other legal authority establishing that our prior decision incorrectly applied law or agency policy or was incorrect based on the relevant evidence in the record at the time of the decision.

The Petitioner's arguments regarding her inadmissibility under sections 212(a)(9)(B)(i)(II) and 212(a)(9)(C)(i)(I) of the Act are moot. In our decision on appeal, we found that the Petitioner was not inadmissible under those sections of the Act and we withdrew the Director's findings of inadmissibility on those grounds. However, the Petitioner remains inadmissible under sections 212(a)(6)(A)(i) and 212(a)(7)(B)(i)(I) of the Act. The Petitioner did not contest on appeal, and she does

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not contest on motion, her inadmissibility on those grounds. Additionally, as we previously noted, we do not have jurisdiction to review whether the Director correctly concluded that the Petitioner did not demonstrate eligibility for a Form I-192 waiver as a matter of discretion.

As in all visa petition proceedings, the Petitioner bears the burden of proving eligibility for U nonimmigrant status. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.14(c)(4); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the Petitioner has not met that burden. Accordingly, the motions are denied.

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of S-D-R-H-R-*, ID# 14753 (AAO Oct. 20, 2015)