U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF E-M-H-

DATE: JAN. 4, 2016

MOTION ON 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* Immigration and Nationality Act (the Act) § 101(a)(15)(U), 8 U.S.C. § 1101(a)(15)(U). The Director, Vermont Service Center, denied the petition and we dismissed the Petitioner's subsequent appeal. The matter is now before us on a motion to reopen. The motion will be denied.

The Director denied the Form I-918, Petition for U Nonimmigrant Status, because the Petitioner did not respond to a request for evidence. The Petitioner filed a motion to reopen, which the Director granted. However, the Director affirmed the denial of the Form I-918 based on a finding that the Petitioner was inadmissible and had not filed a Form I-192, Application for Advance Permission to Enter as a Nonimmigrant, to waive her grounds of inadmissibility. The Petitioner filed a timely appeal, which we dismissed in a decision dated June 5, 2015. In our decision on appeal, we noted that the Petitioner had not filed a required Form I-192 with the Director. Additionally, we indicated that the Petitioner did not allege that she was not inadmissible, and that we do not have jurisdiction to consider an appeal of a denied Form I-192 filed by a person who is inadmissible. Furthermore, beyond the decision of the Director, we found that the Petitioner did not establish that she was the victim of qualifying criminal activity, and therefore could not meet any of the eligibility requirements for U nonimmigrant status at subsections 101(a)(15)(U)(i)(I)-(IV) of the Act. Our previous decision is incorporated herein by reference.

On motion, the Petitioner submits a statement in which she discusses a Form I-912, Request for Fee Waiver, that she filed. The Petitioner appears to confuse the Form I-912, which relates to a request for a waiver of a filing fee for an application or petition, with the Form I-192, which relates to a waiver of inadmissibility. The Form I-918 was denied due to the fact that the Petitioner is inadmissible and had not filed a Form I-192 to waive her grounds of inadmissibility. Her statement on motion regarding the Form I-912 is not relevant to the denial of the Form I-918 or the dismissal of her appeal.[1]

[1] Additionally, the Petitioner states on motion that she did not complete Part 3.3 of the Form I-290B, Notice of Appeal or Motion, which requests the name of the U.S. Citizenship and Immigration Services (USCIS) form for which the motion was filed. The Petitioner filed a revised Form I-290B in which she completed Part 3.3. The information at Part 3.3 of the Form I-290B did not affect our decision on the motion to reopen.

The record indicates that the Petitioner also filed a Form I-192 application for waiver of inadmissibility with the Director on July 6, 2015, and that the application is currently pending. Jurisdiction over the Form I-192 remains with the Director, and the Form I-918 cannot be approved without an approved Form I-192.

A motion to reopen must state new facts to be provided and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). The Petitioner does not offer new facts with supporting documentary evidence to support a motion to reopen. Although she has now filed a Form I-192 to request a waiver of inadmissibility, that application has not been adjudicated, and we do not have jurisdiction over a Form I-192. Additionally, even if the Petitioner's Form I-192 were approved, the Petitioner does not address on motion our finding that she did not meet the eligibility requirements for U nonimmigrant status under subsections 101(a)(15)(U)(i)(I)-(IV) of the Act. Consequently, the motion to reopen must be denied. *See* 8 C.F.R. § 103.5(a)(4).

In these proceedings, the Petitioner bears the burden of proving eligibility for the benefit sought. 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 motion to reopen is denied.

ORDER: The motion to reopen is denied.

Cite as *Matter of E-M-H-*, ID# 15252 (AAO Jan. 4, 2016)