



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

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

MATTER OF S-A-H-

DATE: JAN. 8, 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 and a motion to reconsider. The motions will be denied.

#### I. APPLICABLE LAW

A motion to reopen must state the new facts to be proved and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must: (1) 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 U.S. Citizenship and Immigration Services policy; and (2) establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

#### II. RELEVANT FACTS AND PROCEDURAL HISTORY

The Director denied the Form I-918, Petition for U Nonimmigrant Status, based on findings that the evidence did not establish that the Petitioner was a victim of qualifying criminal activity and suffered substantial mental or physical abuse as a result. The Petitioner filed a timely appeal. In our dismissal of the Petitioner's appeal, we found that the Petitioner was the victim of the qualifying criminal activity of extortion, and we withdrew the Director's decision to the contrary. However, we concluded that the Petitioner did not establish that he suffered substantial physical or mental abuse as a result of the extortion. Accordingly, we also found that the Petitioner could not establish the remaining eligibility requirements for U nonimmigrant status under section 101(a)(15)(U)(i) of the Act. Our previous decision is incorporated herein by reference.

#### III. ANALYSIS

The only issue on motion is whether the Petitioner suffered substantial physical or mental abuse as a result of the extortion of which he was a victim. In a brief statement submitted on motion, the Petitioner asserts that he has demonstrated by a preponderance of the evidence that he suffered

substantial mental abuse as a result of being sought and threatened by the perpetrators of an armed robbery and kidnapping that occurred at a business the Petitioner owned. The Petitioner contends that, although he was not present during the robbery and kidnapping at his business, he was harmed by the incident. He states that the perpetrators knew his name and called him on his cellular telephone after the incident to demand a ransom payment for the individual who was kidnapped. The Petitioner also indicates that he cooperated with the police and provided cash to the police for payment of the ransom. He also asserts that the perpetrators threatened to kill the Petitioner for cooperating with the police. The Petitioner states that he and his family spent two years away from their home due to fear of being found by the perpetrators, and that they continue to be fearful eight years after the incident. He reports that he and all of his family members have attended counseling. Additionally, the Petitioner states that three of his family members were murdered in Mexico, and that he fears the incident at his business was connected to those murders. The Petitioner asserts that he and his family have suffered “fear, anxiety and mental anguish” as a result of the crime at his business, and that he submitted sufficient evidence on appeal to support his claim.

The Petitioner does not state new facts on motion supported by documentary evidence. The Petitioner refers to his previous statements and asserts that the evidence he submitted below and on appeal was sufficient to meet his burden of proof. Accordingly, the Petitioner’s submission does not meet the requirements of a motion to reopen under 8 C.F.R. § 103.5(a)(2). Furthermore, the Petitioner does not cite binding legal authority to establish that our decision incorrectly applied law or agency policy or was in error in light of the evidence in the record at the time of our decision. Instead, the Petitioner summarizes his previous assertions and contends that the actions of the perpetrators caused him substantial mental abuse. The Petitioner’s statement on motion does not meet the requirements of a motion to reconsider as outlined at 8 C.F.R. § 103.5(a)(3). Consequently, the motion to reopen and the motion to reconsider must be denied. *See* 8 C.F.R. § 103.5(a)(4).

#### IV. CONCLUSION

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.

**ORDER:** The motion to reopen is denied.

**FURTHER ORDER:** The motion to reconsider is denied.

Cite as *Matter of S-A-H-*, ID# 15453 (AAO Jan. 8, 2016)