



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

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

MATTER OF M-A-C-F-

DATE: JAN. 15, 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 summarily dismissed a subsequent appeal. 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, petition because the Petitioner had not established that she was a victim of qualifying criminal activity or criminal activity that was substantially similar to one of the qualifying crimes, and consequently, she also had not demonstrated that she had suffered resultant substantial physical or mental abuse, possessed information concerning qualifying criminal activity, had been helpful to authorities investigating or prosecuting qualifying criminal activity, and shown that qualifying criminal activity occurred within the jurisdiction of the United States. We summarily dismissed the appeal on July 7, 2015.

A motion to reopen must state the new facts to be provided 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 (USCIS) 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).

Here, the Petitioner resubmitted her previously filed evidence in support of her motion to reopen.¹ She has not asserted any new facts to be proved in the reopened proceeding and has not submitted any additional evidence in support of the merits of her Form I-360. Accordingly, her submission does not meet the requirements of a motion to reopen under 8 C.F.R. § 103.5(a)(2). The Petitioner's submission also does not meet the requirements of a motion to reconsider. The Petitioner submits a

¹ The Petitioner also submits a July 24, 2015, statement written in Spanish without a corresponding certified English translation. Because the Petitioner did not submit a certified translation of the statement, we cannot determine whether the evidence supports the Petitioner's claims. *See* 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

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statement requesting that we reopen and reconsider her case based on her prior documentation. However, she does not discuss the basis of the Director's denial or assert that the prior decision incorrectly applied the pertinent law or agency policy. Nor does she assert that the prior decision was erroneous based on the evidence of record at the time of the initial decision. Consequently, the motion to reopen and motion to reconsider must be denied. *See* 8 C.F.R. § 103.5(a)(4).

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 to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of M-A-C-F-*, ID# 15600 (AAO Jan. 15, 2016)