



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

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

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

DATE: JUNE 2, 2016

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

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

The Petitioner seeks “U-1” nonimmigrant classification as a victim of qualifying criminal activity. *See* Immigration and Nationality Act (the Act) §§ 101(a)(15)(U) and 214(p), 8 U.S.C. §§ 1101(a)(15)(U) and 1184(p). The U-1 classification affords nonimmigrant status to victims of certain crimes who assist authorities investigating or prosecuting the criminal activity.

The Director, Vermont Service Center, denied the petition. The Director concluded that the Petitioner was inadmissible to the United States, and the grounds of inadmissibility had not been waived. The Petitioner appealed the Director’s decision. She claimed she was not inadmissible, and requested that we approve her Form I-192, Application for Advance Permission to Enter as Nonimmigrant, as a matter of discretion. On appeal, we agreed with the Director that the Petitioner was inadmissible under sections 212(a)(6)(A)(i) (present without admission or parole) and 212(a)(7)(B)(i)(I) (not in possession of a valid passport). We withdrew the Director’s findings with respect to the remaining grounds of inadmissibility, which will not be repeated here. We stated that we did not have jurisdiction to review the Director’s denial of the Form I-192.

The Petitioner filed a motion to reopen and a motion to reconsider, and requested that we exercise favorable discretion to approve her Form I-192. We denied the motion, as the Petitioner did not address her inadmissibility under sections 212(a)(6)(A)(i) (present without admission or parole) and 212(a)(7)(B)(i)(I) (not in possession of a valid passport), and because we did not have jurisdiction to review the Director’s denial of the Form I-192. Full discussion of the issues may be found in our previous decisions, which are incorporated here by reference.

The matter is now before is on a motion to reconsider. The Petitioner claims the equities in favor of her remaining in the United States are stronger than they were when the Director denied the Form I-192, and requests that we remand the application to the Director to reconsider the merits in light of the Petitioner’s changed circumstances.

Upon review, we will deny the motion.

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 United States 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). The Petitioner does not establish that our prior decisions were incorrect based on the law and the evidence of record at the time. Consequently, the motion to reconsider must be denied. *See* 8 C.F.R. § 103.5(a)(4).

For aliens seeking U nonimmigrant status who are inadmissible to the United States, the regulations at 8 C.F.R. §§ 212.17 and 214.14(c)(2)(iv) require the filing of a Form I-192 waiver in conjunction with a Form I-918, Petition for U Nonimmigrant Status, in order to waive any ground of inadmissibility. The regulation at 8 C.F.R. § 212.17(b)(3) states in pertinent part: “There is no appeal of a decision to deny a waiver.” As we do not have jurisdiction to review whether the Director properly denied the Form I-192, we do not consider whether approval of the Form I-192 should have been granted. The only issue that may come before us is whether the Director was correct in finding the Petitioner inadmissible to the United States and, therefore, requiring an approved Form I-192 pursuant to 8 C.F.R. §§ 212.17 and 214.14(c)(2)(iv).

The Petitioner is inadmissible under sections 212(a)(6)(A)(i) (present without admission or parole) and 212(a)(7)(B)(i)(I) (not in possession of a valid passport). We have no jurisdiction to review the Director’s denial of the Form I-192, nor will we remand the application when, as is the case here, the Director was correct in finding that the Petitioner is inadmissible.

As the Director indicated in her initial decision, this denial is without prejudice to the Petitioner’s filing of a new Form I-192 with USCIS in accordance with the applicable regulations.

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 reconsider is denied.

Cite as *Matter of S-D-R-H-R-*, ID# 16641 (AAO June 2, 2016)