



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

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

MATTER OF A-E-P-E-

DATE: MAY 18, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-918 SUPPLEMENT A, PETITION FOR QUALIFYING FAMILY
MEMBER OF U-1 RECIPIENT

The Petitioner, who seeks “U-1” nonimmigrant classification for herself, also seeks U nonimmigrant classification of the Derivative as a qualifying family member of a person granted U-1 status. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(U)(ii), 8 U.S.C. § 1101(a)(15)(U)(ii). The U classification affords nonimmigrant status to victims of certain crimes who assist authorities investigating or prosecuting the criminal activity, and affords derivative status for qualifying family members.

The Director, Vermont Service Center, denied the petition. The Director concluded that because the Petitioner’s petition for U-1 nonimmigrant classification had been denied, the Derivative was not eligible for derivative classification.

The matter is now before us on appeal. On appeal, the Petitioner submits a brief and additional evidence. The Petitioner claims that she filed an appeal of the Director’s denial, she is eligible for U-1 classification, and accordingly, the Derivative is eligible for U-2 classification.

Upon *de novo* review, we will dismiss the appeal.

The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010). A petitioner may submit any evidence for us to consider in our *de novo* review; however, we determine, in our sole discretion, the credibility of and the weight to give that evidence. *See* section 214(p)(4) of the Act; 8 C.F.R. § 214.14(c)(4).

The Director denied the Petitioner’s Form I-918, Petition for U Nonimmigrant Status, because she did not establish that the crime investigated or prosecuted was a qualifying crime or substantially similar to qualifying criminal activity listed at section 101(a)(15)(U)(iii) of the Act, and as such, she did not meet the remaining criteria for U nonimmigrant classification at section 101(a)(15)(U)(i) of the Act. The Petitioner appealed the Director’s adverse finding.

In a separate proceeding, we dismissed the Petitioner’s appeal because the record did not establish that the Petitioner was a victim of qualifying criminal activity and she did not meet the remaining criteria for

Matter of A-E-P-E-

the classification. As the Petitioner's Form I-918 remains denied, the Derivative is ineligible for nonimmigrant classification as the qualifying relative of a U nonimmigrant pursuant to section 101(a)(15)(U)(ii)(II) of the Act. Consequently, the Petitioner's Form I-918 Supplement A, Petition for Qualifying Family Member of a U-1 Recipient, submitted behalf of the Derivative cannot be approved. *See* 8 C.F.R. § 214.14(a)(10):(f)(1).

In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of A-E-P-E-*, ID# 16463 (AAO May 18, 2016)