

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave. N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services



D15

Date: **OCT 18 2012** Office: VERMONT SERVICE CENTER FILE:

IN RE: Petitioner:

PETITION: Petition for U Nonimmigrant Classification as a Victim of a Qualifying Crime Pursuant to Section 101(a)(15)(U) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(U)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Jerry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center (the director), denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected and the petition will remain denied.

The petitioner seeks nonimmigrant classification under section 101(a)(15)(U) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(U), as an alien victim of certain qualifying criminal activity.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days of service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.8(b). Regarding receipt dates for applications and petitions, the regulation at 8 C.F.R. § 103.2(a)(7)(i) provides, in pertinent part: “A benefit request which is not signed and submitted with the correct fee(s) will be rejected.” A benefit request which is rejected will not retain a filing date. 8 C.F.R. § 103.2(a)(7)(ii).

The record indicates that the director issued the decision on January 26, 2012, and he properly gave notice to the petitioner that she had 33 days to file the appeal. Neither the Immigration and Nationality Act (the Act) nor the pertinent regulations grant the AAO authority to extend this time limit.

The petitioner initially submitted the Notice of Appeal or Motion (Form I-290B) on February 16, 2012; however, the director rejected the appeal because it was not filed with the proper fee. The appeal was not received by the service center as properly filed until February 29, 2012, or 34 days after the decision was issued. Accordingly, the appeal was untimely filed and must be rejected.<sup>1</sup>

**ORDER:** The appeal is rejected. The petition remains denied.

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<sup>1</sup> Even if the appeal had been timely filed, we would have summarily dismissed it pursuant to 8 C.F.R. § 103.3(a)(1)(v). Counsel indicated on the Form I-290B that a brief or other evidence would be submitted to the AAO within 33 days, or by April 2, 2012. To date, over six months later, the AAO has received no further brief or evidence from counsel or the petitioner, and the Form I-290B fails to identify an erroneous conclusion of law or statement of fact made by the director in his denial decision.