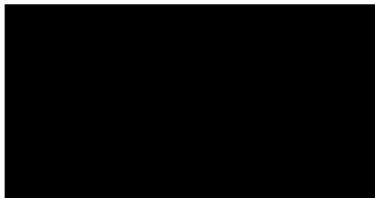


U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



815

Date: **OCT 24 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:

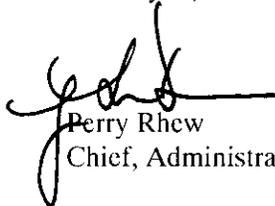


INSTRUCTIONS:

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.

If you believe the AAO inappropriately applied the law in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or motion, with a fee of \$630, or a request for a fee waiver. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,



Perry Rhew
Chief, Administrative Appeals Office



DISCUSSION: The Director, Vermont Service Center (the director), denied the U nonimmigrant visa petition and the Administrative Appeals Office (AAO) summarily dismissed the subsequent appeal. The matter is again before the AAO on a motion to reopen or reconsider. The motion will be dismissed 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.

The record reflects that on September 8, 2011, the director found that the petitioner did not submit the requisite Form I-918 Supplement B, U Nonimmigrant Status Certification (Form I-918 Supplement B) and that the petitioner, therefore, could not meet any of the eligibility criteria at section 101(a)(15)(U)(i) of the Act. The director further found that the petitioner had failed to show that he was a victim of a qualifying criminal activity, that he had suffered substantial physical or mental abuse as a result of his victimization, that he possessed information and was helpful to law enforcement in the investigation or prosecution of a qualifying criminal activity, or that the qualifying criminal activity occurred in the United States, its territories or possessions, or violated a federal law that provides for extraterritorial jurisdiction. The petitioner, through counsel, then timely filed an appeal with the AAO that was summarily dismissed as counsel failed to identify any erroneous conclusion of law or statement of fact made by the director in regard to the director's finding that the petitioner failed to submit the requisite Form I-918 Supplement B. The petitioner then timely filed the instant motion with the AAO.

The regulation at 8 C.F.R. § 103.5(a) states, in pertinent part:

* * *

(2) Requirements for motion to reopen. A motion to reopen must state the new facts to be proved in the reopened proceedings and be supported by affidavits or other documentary evidence. . . .

(3) Requirements for motion to reconsider. A motion to reconsider must 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 Service policy. . . .

* * *

The petitioner has failed to meet either the requirements for a motion to reopen or a motion to reconsider. In his brief, counsel failed to state any new facts to be proven as required, and as such, the motion to reopen must be dismissed. *See* 8 C.F.R. § 103.5(a)(2). Counsel also failed to establish that the director's decision or the subsequent AAO decision was based on an incorrect application of law or Service policy as required. Counsel has still failed to submit the Form I-918 Supplement B, which is required by section 214(p)(1) of the Act, 8 U.S.C. § 1184(p)(1) and the regulation at


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8 C.F.R. § 214.14(c)(2)(i); therefore, the petitioner cannot meet any of the eligibility criteria at section 101(a)(15)(U)(i) of the Act.¹ *See* 8 C.F.R. § 103.5(a)(3). As such, the motion to reconsider must be dismissed for failing to meet applicable requirements. 8 C.F.R. § 103.5(a)(4).

In these proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act; 8 C.F.R. § 214.14(c)(4). Here, that burden has not been met.

ORDER: The motion is dismissed. The petition remains denied.

¹ While counsel argues the merits of the petitioner's eligibility for U nonimmigrant status, it is unnecessary to address such arguments on motion, as the petitioner has failed to submit required initial evidence. *See* 8 C.F.R. § 214.14(c)(2)(i) and section 214(p)(1) of the Act.