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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

[Redacted]

DATE:

JUL 16 2015

[Redacted]

IN RE:

Petitioner:

[Redacted]

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:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

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

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 director denied the Petition for U Nonimmigrant Status (Form I-918 U petition), finding that because the petitioner did not sign the petition prior to its submission, the petition was not properly submitted. The director further denied the petition because the petitioner was inadmissible to the United States and her Form I-192, Application for Advance Permission to Enter as a Nonimmigrant (Form I-192)(waiver application) was denied.

On appeal, the petitioner submits a brief and additional evidence, claiming that the Forms I-918 and I-192 were incorrectly denied.

Applicable Law and Appellate Jurisdiction

Section 101(a)(15)(U)(i) of the Act provides for U nonimmigrant classification to alien victims of certain criminal activity who assist government officials in investigating or prosecuting such criminal activity. Section 212(d)(14) of the Act requires U.S. Citizenship and Immigration Services (USCIS) to determine whether any grounds of inadmissibility exist when adjudicating a Form I-918, Petition for U Nonimmigrant Status (Form I-918 U petition), and provides USCIS with the authority to waive certain grounds of inadmissibility as a matter of discretion.

Section 212(a) of the Act sets forth the grounds of inadmissibility to the United States, and states, in pertinent part:

(2) Criminal and Related Grounds

(A) Conviction of Certain Crimes

(i) In General.-Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of –

* * *

(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance . . .

* * *

is inadmissible.

(6) Illegal Entrants and Immigration Violators

(A) Aliens Present Without Permission or Parole

- (i) In General.-An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.

* * *

For aliens seeking U nonimmigrant status who are inadmissible to the United States, the regulations at 8 C.F.R §§ 212.17, 214.14(c)(2)(iv) require the filing of a Form I-192 waiver in conjunction with a Form I-918 U petition 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, 214.14(c)(2)(iv).

Facts and Procedural History

The petitioner is a native and citizen of Mexico who claims to have last entered the United States at Nogales, Arizona in September 2003 without inspection, admission or parole. The petitioner filed the instant Form I-918 U petition on July 15, 2013, with an accompanying U Nonimmigrant Status Certification (Form I-918 Supplement B). On the same day, the petitioner filed a Form I-192. The director subsequently issued a Request for Evidence (RFE) of the petitioner’s eligibility for U nonimmigrant status on October 22, 2013. In response, the petitioner submitted, in part, revisions to the Form I-918, documents in support of the petition, and a revised Form I-192. The petitioner informed the director of suspected immigration fraud by her prior attorney in the filing of the Form I-918 U petition. On February 21, 2014, in proceedings related to the Form I-192 waiver application, the director issued a separate RFE, of, among other things, the petitioner’s criminal convictions and other grounds of inadmissibility, and requested that the petitioner explain why she signed a personal statement that appeared to misrepresent certain facts material to the adjudication of her Form I-918 U petition. In response, the petitioner stated, in part, that she did not sign or review the personal statement or the Form I-918 submitted by her prior attorney.¹

In a decision dated September 11, 2014, the director found the petitioner’s response insufficient to overcome the grounds of inadmissibility and denied the Form I-192. The director determined that the petitioner was inadmissible under sections 212(a)(6)(A)(i) (present without admission or parole)

¹ In response to the RFE in the Form I-192 proceedings, the petitioner submitted a revised Form I-918 U petition with an original signature, along with evidence that she filed a complaint against her prior attorney with the Minnesota Office of Lawyers Professional Responsibility for forging her signature and submitting, in part, false information on her behalf to USCIS. The petitioner indicated in the bar complaint that she personally obtained the certifying official’s signature on the Form 918 Supplement B.

and 212(a)(2)(A)(i)(II) (controlled substance violation). As the petitioner was found inadmissible and her Form I-192 had been denied, the director consequently denied the petitioner's Form I-918 U petition. The director further denied the Form I-918 U petition as the petitioner did not sign the petition as required by the regulation at 8 C.F.R. § 103.2(a)(2). The petitioner timely appealed.

Analysis

We conduct appellate review on a *de novo* basis. The petitioner has not overcome the director's grounds for denial and the appeal will be dismissed for the following reasons.

In her decision denying the Form I-192, the director indicated that the petitioner is inadmissible under sections 212(a)(6)(A)(i) and 212(a)(2)(A)(i)(II) of the Act (entry without inspection and controlled substance violator, respectively). A full review of the record supports the director's inadmissibility determination on both of the stated grounds. On appeal, the petitioner does not dispute that she is inadmissible to the United States on the stated grounds but asserts that the director's decision denying her Form I-192 waiver application was erroneous and she merits a favorable exercise of discretion. However, the director denied the petitioner's application for a waiver of inadmissibility, and we have no jurisdiction to review the denial of a Form I-192 submitted in connection with a Form I-918 U petition. *See* 8 C.F.R. § 212.17(b)(3).

The petitioner further asserts on appeal that the director should have considered the revised Form I-918 U petition with her original signature submitted in response to the RFE. The regulation at 8 C.F.R. § 103.2(a)(2) requires that a petitioner sign his or her request for a benefit. Although the petitioner attempted to amend the Form I-918 U petition in response to the director's RFE in the Form I-192 waiver proceedings, the director properly denied the petition for lacking a signature under the regulation at 8 C.F.R. § 103.2(a)(2). *See also* 8 C.F.R. § 103.2(b)(8) (the director may deny a petition without issuing a Request for Evidence if the record evidence establishes ineligibility).

Conclusion

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. The petitioner has not established that she is admissible to the United States or that her grounds of inadmissibility have been waived. In addition, the petitioner did not sign the Form I-918 U petition as required by the regulation at 8 C.F.R. § 103.2(a)(2). The petitioner is consequently ineligible for nonimmigrant classification under section 101(a)(15)(U)(i) of the Act, pursuant to 8 C.F.R. § 214.1(a)(3)(i).

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