



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

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

In Re: 19348629

Date: FEB. 16, 2022

Appeal of Vermont Service Center Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks U-1 nonimmigrant classification under sections 101(a)(15)(U) and 214(p) of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1101(a)(15)(U) and 1184(p), as a victim of qualifying criminal activity. The Director of the Vermont Service Center revoked approval of the Form I-918, Petition for U Nonimmigrant Status (U petition) and dismissed a motion to reopen. The matter is now before us on appeal. On appeal, the Petitioner submits evidence and a brief asserting her eligibility for U-1 nonimmigrant classification. The Administrative Appeals Office reviews the questions in this matter *de novo*. *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will remand this matter to the Director for further proceedings.

I. LAW

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reopen that satisfies these requirements and establishes eligibility for the benefit sought may be granted. A motion to reopen must be filed within 30 days of the unfavorable decision (or 33 days if the decision is mailed). 8 C.F.R. §§ 103.5(a)(1)(i) and 103.8(b). U.S. Citizenship and Immigration Services (USCIS) may excuse failure to timely file a motion to reopen if the petitioner demonstrates that the delay was reasonable and was beyond his or her control. 8 C.F.R. § 103.5(a)(1)(i).

To establish eligibility for U-1 nonimmigrant classification, petitioners must show that they: have suffered substantial physical or mental abuse as a result of having been the victim of qualifying criminal activity; possess information concerning the qualifying criminal activity; and have been helpful, are being helpful, or are likely to be helpful to law enforcement authorities investigating or prosecuting the qualifying criminal activity. Section 101(a)(15)(U)(i) of the Act.

USCIS may revoke an approved U petition on notice if the approval was in error. 8 C.F.R. § 214.14(h)(2)(i)(B). In revocation proceedings, "USCIS shall consider all relevant evidence presented in deciding whether to revoke the approved petition for U nonimmigrant status. The determination of what is relevant evidence and the weight to be given to that evidence will be within the sole discretion of USCIS." 8 C.F.R. § 214.14(h)(2)(ii). We review appeals from revocation proceedings *de novo*. *Matter of Simeio Solutions, LLC*, 26 I&N Dec. 542, 542 n.1 (AAO 2015).

II. ANALYSIS

The Petitioner filed her U petition on April 30, 2012, and it was approved from May 22, 2013, until May 21, 2017. On May 6, 2019, the Director issued a notice of intent to revoke (NOIR) approval of the U petition. In the NOIR, the Director stated that the U petition was approved in error as the Petitioner was not the victim of qualifying criminal activity. The Petitioner did not respond to the NOIR and her U petition was revoked on August 13, 2019.¹ The Petitioner filed a motion to reopen on September 13, 2019, and it was rejected on September 24, 2019, for indicating more than one receipt number on the Form I-290B, Notice of Appeal of Motion. She then filed an untimely motion to reopen on October 7, 2019, which was dismissed on May 12, 2021, for failing to meet the requirements at 8 C.F.R. § 103.5(a)(1)(i).

Upon review, we note that the regulations do not mandate motion rejection based upon the erroneous listing of two receipt numbers on the Form I-290B. *See* 8 C.F.R. § 103.2(a)(7)(ii) (providing reasons for rejecting a benefit request). Furthermore, the Form I-290B instructions do not indicate that the Form I-290B will be rejected for listing multiple receipt numbers. *See USCIS, Instructions for Notice of Appeal or Motion*, (December 2, 2019). Accordingly, the Petitioner's initial motion was timely filed and erroneously rejected. Thus, we will remand this matter to the Director for further proceedings.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

¹ The Petitioner filed Form I-485, Application for Adjustment of Status of Alien in U Nonimmigrant Status (U adjustment application), in May 2016 based on her U nonimmigrant status. Her U adjustment application was denied in November 2019, as she was no longer eligible to adjust status due to her U petition being revoked.