



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

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

In Re: 26663905

Date: JUNE 7, 2023

Certification of Vermont Service Center Decision

Form I-918 Supplement A, Petition for Qualifying Family Member of U-1 Recipient

The Petitioner seeks “U-1” nonimmigrant classification and also seeks U nonimmigrant classification on behalf of the Derivative, his child, as a qualifying family member of an individual granted U-1 status. See section 101(a)(15)(U)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(U)(ii). The Director denied the Form I-918 Supplement A, Petition for Qualifying Family Member of a U-1 Recipient (U derivative petition), and the Petitioner appealed. On appeal, we remanded the matter to the Director for the entry of a new decision and requested certification if the decision was adverse to the Petitioner. The Director issued a new decision denying the U derivative petition and the matter is now before us on certification pursuant to 8 C.F.R. § 103.4(a). The Petitioner has not submitted a brief or additional evidence on certification. 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 affirm the Director’s decision denying the petition.

The Director denied the U derivative petition, concluding that the Derivative did not meet the definition of qualifying family member because the Derivative was 21 years old when the U petition was filed with U.S. Citizenship and Immigration Services (USCIS). See 8 C.F.R. § 214.14 (defining qualifying family member as, in the case of a petitioner 21 years of age or older who is eligible, their spouse of children); see also section 101(b)(1) of the Act (defining “child” to mean an unmarried person under 21 years of age). On appeal, the Petitioner submitted evidence establishing that the U derivative petition was delivered to USCIS prior to his 21st birthday. Because the sole ground for denial of the U derivative petition was overcome, we remanded the matter to the Director to determine whether the remaining eligibility requirements for derivative U nonimmigrant classification were satisfied.

Upon review, the Director issued a new decision, determining that the Derivative was not eligible for U nonimmigrant status because the principal petitioner’s U-1 validity period expired on January 17, 2023, and he had not filed a Form I-539 Application to Extend/Change Nonimmigrant Status, or a Form I-485, Application to Register Permanent Residence or Adjust Status, which would automatically extend his U nonimmigrant status. See section 214(p)(6) of the Act (providing that the four-year period for U-1 nonimmigrant status “shall be extended” upon the filing of a U-based adjustment of status application).

Approval of the Supplement A is contingent upon the approval of the underlying Form I-918, Petition for U Nonimmigrant Status (U petition). See 8 C.F.R. §§ 214.14(a)(10), (f)(1) (defining qualifying family member and outlining eligibility requirements for derivative U nonimmigrant status). The qualifying family relationship must exist when the principal petitioner's U petition is filed, and the relationship must continue to exist at the time the U derivative petition is adjudicated and at the time of the qualifying family member's subsequent admission as a U nonimmigrant. 8 C.F.R. § 214.14(f)(4).

USCIS records indicate that the principal U-1 petitioner has since filed for an extension of his U nonimmigrant status; however, the application remains pending. Therefore, we agree with the Director in finding that, because the principal petitioner does not currently hold valid U-1 nonimmigrant status, as defined in section 101(a)(15)(U)(i) of the INA, the Derivative does not meet the definition of qualifying family member as contemplated by 8 C.F.R. 214.14(a)(10), (f)(1), and (f)(4). Accordingly, the Derivative is ineligible for U nonimmigrant classification, and the U derivative petition remains denied.

ORDER: The petition is denied.