



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

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

In Re: 20899701

Date: MAR. 2, 2022

Motion on Administrative Appeals Office Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks “U-1” nonimmigrant classification as a victim of qualifying criminal activity at 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). The Nebraska Service Center Director denied the Petitioner’s Form I-918, Petition for U Nonimmigrant Status (U petition). The Petitioner filed an appeal that we subsequently dismissed. The matter is now before us on a motion to reopen and a motion to reconsider. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon review, we will dismiss both motions.

I. LAW

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.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). According to the Instructions for Notice of Appeal or Motion (Form I-290B, Notice of Appeal or Motion), any new facts and documentary evidence must demonstrate eligibility for the required immigration benefit at the time the application or petition was filed. We do not require the evidence of a “new fact” to have been previously unavailable or undiscoverable. Instead, we interpret “new facts” to mean those that are relevant to the issues raised on motion and that have not been previously submitted in the proceeding, which includes the original petition. Reasserting previously stated facts or resubmitting previously provided evidence does not constitute “new facts.”

A motion to reconsider must: (1) state the reasons for reconsideration, (2) be supported by any pertinent precedent decision to establish that the decision was based on an incorrect application of law or policy, and (3) establish that the decision was incorrect based on the evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). A motion to reopen or a motion to reconsider that does not satisfy the above requirements must be dismissed. 8 C.F.R. § 103.5(a)(4).

II. ANALYSIS

The Petitioner filed his U petition in September of 2015 and the Director denied the petition in January of 2020, concluding that he did not establish he was a victim of qualifying criminal activity. We dismissed a subsequent appeal based on that same conclusion. Within that dismissal, we laid out the facts of this case and we incorporate them here by reference.

We conclude that the Petitioner has not overcome our reasoning in dismissing the appeal through new facts supported by documentary evidence in his motion to reopen, nor has he established that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy necessary to meet the requirements for filing a motion to reconsider. A review of the material submitted on motion reveals that the Petitioner describes the offenses committed against him and the effects it has on him personally. Then after listing the categories of crimes that qualify as a basis for this classification, he offers to provide any additional evidence that might be needed for USCIS to come to a conclusion favorable to him, and he expresses his belief that the offenses against him were qualifying criminal activity. While we are sympathetic to the Petitioner's experiences, the present filing does not offer new facts supported by evidence to demonstrate his eligibility, nor does it establish that our decision on the appeal was incorrect.

Ultimately, the Petitioner has not satisfied the basic requirements for either type of motion and he has not demonstrated that we should either reopen the proceedings or reconsider our decision.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.