

2020 Immig. Rptr. LEXIS 5900

Administrative Appeals Office

DATE: MAR 4, 2020

OFFICE: Motion on Administrative Appeals Office Decision

Reporter

2020 Immig. Rptr. LEXIS 5900 *

In Re: 04858374

Core Terms

nonimmigrant, reconsideration motion, classification, immediate family member, file a motion, ineligible, section

[*1] AAO Designation: D12

Form I-914 – Supplement A, Application for Qualifying Family Member of a T-1 Nonimmigrant

Opinion

The Applicant, who seeks T-1 nonimmigrant classification for herself, also seeks T nonimmigrant classification of the Derivative¹ as an immediate family member of a person granted T-1 status under Immigration and Nationality Act (the Act) section 101(a)(15)(T)(ii), [8 U.S.C. § 1101\(a\)\(15\)\(T\)\(ii\)](#). The Director of the Vermont Service Center denied the Form I-914 – Supplement A, Application for Qualifying Family Member of a T-1 Nonimmigrant (T derivative application), concluding that because [*2] the Applicant's Form I-914, Application for T Nonimmigrant Status (T application), had been denied, the Derivative was ineligible as the immediate family member of a T-1 nonimmigrant. We dismissed the Applicant's appeal, and the matter is now before us on a motion to reconsider. Upon review, we will dismiss the motion to reconsider.

¹ On motion, the Derivative signed the Form I-290B and the accompanying Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative. The regulations provide that only persons or entities with legal standing in the proceeding (or their representative of record) may file a motion. [8 C.F.R. § 103.5\(a\)\(1\)\(iii\)\(A\)](#). In general, the beneficiary of a petition is not a party to the proceeding and does not have standing to file a motion. [8 C.F.R. § 103.3\(a\)\(1\)\(iii\)\(B\)](#). The Derivative is not an affected party with standing in this proceeding, and therefore the motion is not properly filed.

Approval of the T derivative application is contingent upon the approval of the principal T application. *See* [8 C.F.R. § 214.11\(o\)\(9\)](#), [\(s\)\(5\)](#). The Director denied the Applicant's T application. We dismissed the appeal of that denial, and denied the subsequent motion to reconsider. As the Applicant's T application remains denied, the Derivative is ineligible for nonimmigrant classification as the immediate relative of a T nonimmigrant pursuant to section 101(a)(15)(T)(ii) of the Act.

ORDER: The motion to reconsider is dismissed.

MAR042020_02D12101.pdf

End of Document