

2016 Immig. Rptr. LEXIS 5801

Administrative Appeals Office

August 04, 2016

OFFICE: MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

BIA & AAU Non-Precedent Decisions

Reporter

2016 Immig. Rptr. LEXIS 5801 *

MATTER OF R-E-D-

Core Terms

traffic, motion to reopen, nonimmigrant, reconsider, applicable requirements, reconsideration motion, classification, incorrect, evidentiary record, deny a motion, severe form, new facts, eligibility, box

Opinion By: [*1] Decision transmittal issued by: Perry Rhew, Chief, Administrative Appeals Office

Opinion

AAO Designation: D12

APPLICATION: FORM I-914, APPLICATION FOR T NONIMMIGRANT STATUS

The Applicant seeks "T-1" nonimmigrant classification as a victim of human trafficking. *See* Immigration and Nationality Act (the Act) sections 101(a)(15)(T) and 214(o), [8 U.S.C. §§ 1101\(a\)\(15\)\(T\)](#) and [1184\(o\)](#). The T-1 classification affords nonimmigrant status to victims who assist authorities investigating or prosecuting the acts or perpetrators of trafficking.

The Director, Vermont Service Center, denied the Form I-914, *Application for T Nonimmigrant Status*. The Director concluded the Applicant did not establish that he was a victim of a severe form of trafficking in persons, was physically present in the United States on account of such trafficking, and he had complied with a reasonable request for assistance in the investigation or prosecution of acts of severe forms of trafficking. We dismissed a subsequent appeal.

The matter is before us on motion. The Applicant does not make any assertions or submit additional [*2] evidence in support of the filing.

Upon review, we will deny the motion to reopen and to reconsider.¹

I. APPLICABLE LAW

A motion to reopen must state the new facts to be proved and be supported by affidavits or other documentary evidence. [8 C.F.R. § 103.5\(a\)\(2\)](#). A motion to reconsider must: (1) state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services policy; and (2) establish that the decision was incorrect based on the evidence of record at the time of the initial decision. [8 C.F.R. § 103.5\(a\)\(3\)](#).

A. Motion to Reopen

The Applicant does not provide new facts or evidence to overcome our prior determination and to establish his eligibility for T-1 nonimmigrant classification as a victim of human trafficking. Accordingly, we must deny the Applicant's [*3] motion to reopen for not meeting the applicable requirements.

B. Motion to Reconsider

The Applicant does not assert that we incorrectly applied pertinent law or agency policy, that we ignored or mischaracterized the evidence, or that our prior decision was erroneous based on the evidence of record at the time. Accordingly, we must deny the motion to reconsider for not meeting the applicable requirements.

II. CONCLUSION

The Applicant has not met the requirements for a motion to reopen and to reconsider and the motion must, therefore, be denied. [8 C.F.R. § 103.5\(a\)\(4\)](#) (a motion that does not meet the applicable requirements shall be denied).

The Applicant bears the burden of proof to establish his eligibility. 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.

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of R-E-D-*, ID# 14043 (AAO Aug. 4, 2016)

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¹Footnote 1. Despite the I-290B form instructions at part 3, which require that a box must be checked to indicate whether the filing is an appeal or a motion, the Applicant has not checked any box on the form. Every benefit request must be executed and filed in accordance with form instructions which are incorporated into the regulation and may be rejected if not executed. [8 C.F.R. § 103.2\(a\)\(1\), \(7\)\(i\)](#). The term *executed* "means fully completed." [8 C.F.R. § 1.2](#). The motion is denied for this additional reason.

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