



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

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

In Re: 20861724

Date: MAR. 18, 2022

Appeal of Vermont Service Center Decision

Form I-918 – Supplement A, Petition for Qualifying Family Member of a U-1 Nonimmigrant

The Petitioner, who seeks “U-1” nonimmigrant classification for himself, also seeks U nonimmigrant classification of the Derivative, his spouse, as a qualifying family member of a person granted U-1 status under 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 of the Vermont Service Center denied the Form I-918 Supplement A, Petition for Qualifying Family Member of U-1 Nonimmigrant (derivative U petition), and the matter is before us on appeal. The appeal will be rejected.

The record reflects that the Form I-290B, Notice of Appeal or Motion (notice of appeal), appealing the Director’s decision to deny the derivative U petition was signed by the Derivative. However, the derivative of a visa petition is not an affected party and may not file an appeal of his or her denied derivative U petition. *See* 8 C.F.R. § 103.3(a)(1)(iii)(B) (providing that “*affected party* . . . means the person or entity with legal standing in a proceeding” and “does not include the beneficiary of a visa petition”). Only the petitioner of a derivative petition may file an appeal of the denial of the petition. *Id.* If a derivative files the notice of appeal, the appeal must be rejected as improperly filed pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1) (providing that an “appeal filed by a person or entity not entitled to file it must be rejected as improperly filed”). Here, as the Derivative is not an affected party to the petition by regulation, the appeal was improperly filed and must be rejected. We lack the authority to waive the requirements of the regulations. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265 (1954) (providing that immigration regulations carry “the force and effect of law”).

Even if the appeal had been properly filed, it would nevertheless have been dismissed. In a separate proceeding, we rejected the Petitioner’s appeal of his Form I-918, Petition for U Nonimmigrant Status (U petition). As the Petitioner’s U petition remains denied, the Derivative is ineligible for nonimmigrant classification as the qualifying relative of a U nonimmigrant pursuant to section 101(a)(15)(U)(ii)(II) of the Act. Consequently, the derivative U petition submitted by the Petitioner on behalf of the Derivative cannot be approved. *See* 8 C.F.R. § 214.14(f)(1) (hinging eligibility for derivative U nonimmigrant status on the underlying approval of the principal U petition).

ORDER: The appeal is rejected.