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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



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



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DATE:

Office: VERMONT SERVICE CENTER

FILE:



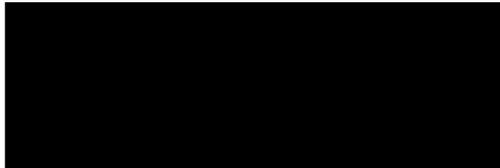
IN RE: OCT 04 2011

Petitioner:



PETITION: Petition for U Nonimmigrant Classification as a Victim of a Qualifying Crime Pursuant to Section 101(a)(15)(U) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(U)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew

Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will remain denied.

The petitioner seeks nonimmigrant classification under section 101(a)(15)(U) of the Immigration and Nationality Act ("the Act"), 8 U.S.C. § 1101(a)(15)(U), as an alien victim of certain qualifying criminal activity.

The director denied the petition because the petitioner did not submit the requisite law enforcement certification, Form I-918 Supplement B, U Nonimmigrant Status Certification (Form I-918 Supplement B), or establish the eligibility criteria at section 101(a)(15)(U)(i)(I) – (IV) of the Act.

On January 31, 2011, counsel for the petitioner filed a Form I-290B to appeal the director's adverse decision and attached a Form I-918 Supplement B.

Applicable Law

Section 101(a)(15)(U) of the Act, provides, in pertinent part, for U nonimmigrant classification to:

(i) subject to section 214(p), an alien who files a petition for status under this subparagraph, if the Secretary of Homeland Security determines that --

- (I) the alien has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described in clause (iii);
- (II) the alien . . . possesses information concerning criminal activity described in clause (iii);
- (III) the alien . . . has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement official, to a Federal, State, or local prosecutor, to a Federal or State judge, to the Service, or to other Federal, State, or local authorities investigating or prosecuting criminal activity described in clause (iii); and
- (IV) the criminal activity described in clause (iii) violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States;

(iii) the criminal activity referred to in this clause is that involving one or more of the following or any similar activity in violation of Federal, State, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes[.]

8 C.F.R. § 214.14(a)(9); section 101(a)(15)(U) of the Act.

Further, section 214(p)(1) of the Act, 8 U.S.C. § 1184(p)(1), provides that a petition for U nonimmigrant classification must contain a law enforcement certification. Specifically, the petitioner must provide:

a certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating criminal activity described in section 101(a)(15)(U)(iii). This certification may also be provided by an official of the Service whose ability to provide such certification is not limited to information concerning immigration violations. This certification shall state that the alien “has been helpful, is being helpful, or is likely to be helpful” in the investigation or prosecution of criminal activity described in section 101(a)(15)(U)(iii).

Pursuant to the regulations, a petitioner must file a Form I-918, *Petition for U Nonimmigrant Status*, to request U nonimmigrant classification. 8 C.F.R. § 214.14(c)(1). The Form I-918 must be accompanied by certain supporting documentation or “initial evidence,” including:

Form I-918, Supplement B, “U Nonimmigrant Status Certification,” signed by a certifying official within the six months immediately preceding the filing of Form I-918. The certification must state that: the person signing the certificate is the head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency, or is a Federal, State, or local judge; the agency is a Federal, State, or local law enforcement agency, or prosecutor, judge or other authority, that has responsibility for the detection, investigation, prosecution, conviction, or sentencing of qualifying criminal activity; the applicant has been a victim of qualifying criminal activity that the certifying official’s agency is investigating or prosecuting; the petitioner possesses information concerning the qualifying criminal activity of which he or she has been a victim; the petitioner has been, is being, or is likely to be helpful to an investigation or prosecution of that qualifying criminal activity; and the qualifying criminal activity violated U.S. law, or occurred in the United States, its territories, its possessions, Indian country, or at military installations abroad.

8 C.F.R. § 214.14(c)(2)(i). A “[c]ertifying agency means a Federal, State, or local law enforcement agency, prosecutor, judge, or other authority, that has responsibility for the investigation or prosecution of a qualifying crime or criminal activity.” 8 C.F.R. § 214.14(a)(2).

The burden of proof is on the petitioner to demonstrate eligibility for U nonimmigrant classification. 8 C.F.R. § 214.14(c)(4). The AAO conducts appellate review on a de novo basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). All credible evidence relevant to the petition has been considered. Section 214(p)(4) of the Act; *see also* 8 C.F.R. § 214.14(c)(4) (setting forth evidentiary standards and burden of proof).

Analysis

In this matter, the Form I-918 Supplement B submitted on appeal is deficient. Part 3.1 identifies the criminal act of which the petitioner was a victim as domestic violence; however, there is no statutory citation provided at Part 3.3 regarding the criminal activity that was investigated or prosecuted. We note the Order of Protection issued on June 28, 2007 in [REDACTED] Oklahoma¹ that was attached to the Form I-918 Supplement B; however, this order does not provide the statutory citation for the criminal activity that was investigated, which led to the order being issued.

In addition, the individual who signed the Form I-918 Supplement B at Part 6 is not identified as either the certifying official or the head of the certifying agency at Part 2. Furthermore, the petitioner submitted a photocopy of the Form I-918 Supplement, which does not contain an original handwritten signature at Part 6. *See generally*, 8 C.F.R. § 103.2(a)(2).

Accordingly, the Form I-918 Supplement B has not been properly completed and executed pursuant to section 214(p) of the Act and the regulation at 8 C.F.R. § 214.14(c)(2)(i). As the petitioner has failed to submit a properly completed and executed certification, she has not overcome this portion of the director's denial decision and cannot meet any of the eligibility criteria for U nonimmigrant classification under section 101(a)(15)(U)(i) of the Act. The petitioner is consequently ineligible for nonimmigrant classification pursuant to section 101(a)(15)(U)(i) of the Act and her petition must be denied.

Conclusion

In these proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.14(c)(4). Here, that burden has not been met. The appeal will be dismissed and the petition will remain denied for the above stated reasons.

ORDER: The appeal is dismissed. The petition remains denied.

¹ Case No. [REDACTED]