

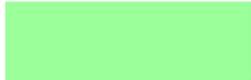


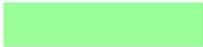
U.S. Citizenship
and Immigration
Services

(b)(6)



Date: FEB 14 2013

Office: VERMONT SERVICE CENTER FILE: 

IN RE: 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:

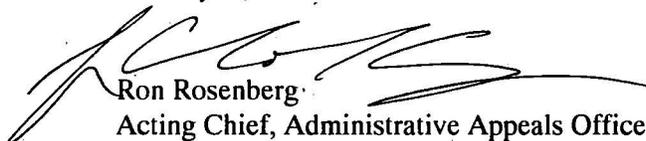
SELF-REPRESENTED

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 AAO inappropriately applied the law 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 in accordance with the instructions on Form I-290B, Notice of Appeal or motion, with a fee of \$630, or a request for a fee waiver. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** 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,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the U 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)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(U)(i), 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), failed to establish that he was the victim of a qualifying criminal activity, and therefore could not show that he met any of the eligibility criteria for U nonimmigrant classification. On appeal, the petitioner submits a letter.

Applicable Law

Section 101(a)(15)(U) of the Act, 8 U.S.C. § 1101(a)(15)(U), provides U nonimmigrant classification to alien victims of certain qualifying criminal activity and their qualifying family members. Section 214(p)(1) of the Act, 8 U.S.C. § 1184(p)(1) states:

The petition filed by an alien under section 101(a)(15)(U)(i) shall contain 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).

Regarding the application procedures for U nonimmigrant classification, the regulation at 8 C.F.R. § 214.14(c) states, in pertinent part:

(2) *Initial evidence.* Form I-918 must include the following initial evidence:

(i) 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.

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 will be 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).

Facts and Procedural History

The petitioner is a native and citizen of Haiti who claims to have entered the United States between 1996 and 1998. On November 10, 2008, the petitioner filed a Form I-918 U petition with an accompanying *U Nonimmigrant Status Certification* (Form I-918 Supplement B) that was not signed, dated or completed by a certifying official. The director found that the evidence that was submitted was insufficient to establish the petitioner's eligibility and denied the petition due to the lack of a properly completed Form I-918 Supplement B.

On appeal, the petitioner submits a letter in which he again cites to the regulations for adjustment of status for U visa recipients.

Analysis

Upon review, we find no error in the director's decision to deny the petition. The petitioner was required to submit a Form I-918 Supplement B as initial evidence that conformed to the regulatory requirements at 8 C.F.R. § 214.14(c)(2)(i). The Form I-918 Supplement B that the petitioner submitted, however, was insufficient, as it was signed by a notary affiliated with a community organization. It was not signed by a certifying official of a certifying agency, as defined at 8 C.F.R. § 214.14(a)(2)-(3). Accordingly, the Form I-918 Supplement B submitted by the petitioner in support of his Form I-918 U petition is not a law enforcement certification described at section 214(p)(1) of the Act. We recognize the difficulties that a petitioner may face in obtaining a law enforcement certification; however, U.S. Citizenship and Immigration Services (USCIS) lacks the authority to waive the statutory requirement for the certification at section 214(p)(1) of the Act. Without the requisite certification, the petitioner cannot establish that he was the victim of qualifying criminal activity and consequently cannot meet any of the eligibility criteria for U nonimmigrant classification under section 101(a)(15)(U)(i) of the Act. *See* subsections 101(a)(15)(U)(i)(I)-(IV) of the Act

(b)(6)

Page 4

(requiring qualifying criminal activity for all prongs of eligibility).

On appeal, the petitioner argues that he should only have to prove that he made a reasonable effort to obtain a Form I-918 Supplement B. However, as previously noted, the petitioner cites to the regulations governing adjustment of status for U visa recipients, and does not address the requirement for a Form I-918 Supplement B at section 214(p)(1) of the Act. The burden of proof is on the petitioner to demonstrate eligibility for U nonimmigrant classification and to obtain the Form I-918 Supplement B. As the petitioner has failed to provide a Form I-918 Supplement B that conforms to the regulatory requirements listed at 8 C.F.R. § 214.14(c)(2)(i), he has failed to establish his eligibility for U nonimmigrant classification.

Conclusion

The petitioner has not complied with the regulation at 8 C.F.R. § 214.14(c)(2)(i) regarding the submission of required initial evidence. Accordingly, the petitioner has not demonstrated that he was a victim of qualifying criminal activity, as required by subsections 101(a)(15)(U)(i) and (iii) of the Act. He therefore also fails to meet the remaining eligibility requirements for U nonimmigrant status. See subsections 101(a)(15)(U)(i)(II)–(IV) of the Act (requiring qualifying criminal activity for all prongs of eligibility). For these reasons, his appeal must be dismissed and his petition must remain denied.

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); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Here, that burden has not been met, and the appeal is dismissed.

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