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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**



D14

Date: FEB 17 2012 Office: VERMONT SERVICE CENTER FILE: [REDACTED]

IN RE: PETITIONER: [REDACTED]

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:

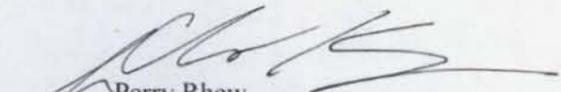
SELF-REPRESENTED

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 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 ("the director"), 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) 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.

Applicable Law

Section 101(a)(15)(U) of the Act 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.

In addition, like all other nonimmigrants, petitioners for U classification must establish their admissibility to the United States or show that any grounds of inadmissibility have been waived. 8 C.F.R. § 214.1(a)(3)(i). For aliens seeking U nonimmigrant status who are inadmissible to the United States, the regulations at 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv) require the filing of an Application for Advance Permission to Enter as a Nonimmigrant (Form I-192) in conjunction with a Form I-918 U petition in order to waive any ground of inadmissibility.

The burden of proof is on the petitioner to demonstrate eligibility for U nonimmigrant classification. 8 C.F.R. § 214.14(c)(4). All credible evidence relevant to the petition will be considered. Section 214(p)(4) of the Act; 8 C.F.R. § 214.14(c)(4) (setting forth evidentiary standards and burden of proof).

Factual and Procedural History

The petitioner is a native and citizen of Guatemala who claims to have entered the United States in June 1991 without being inspected, admitted paroled by an immigration officer. On September 21, 2010, 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 nor dated by a certifying official. The director subsequently issued a Request for Evidence (RFE) to obtain, in part, a properly completed Form I-918 Supplement B. In response, however, the petitioner did not submit such document, only evidence relating to his attempts to obtain a Form I-918 Supplement B from the Lompoc, California Police Department. The director denied the petition due to the lack of a properly completed Form I-918 Supplement B and because the petitioner is inadmissible to the United States and his request for a waiver of inadmissibility was denied. On appeal, the petitioner submits a statement in which he claims that the Lompoc, California Police Department does not provide law enforcement certifications to individuals who request them, only copies of police reports.

Analysis

The AAO conducts appellate review on a de novo basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). 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 did not provide the name(s) of the certifying official and head of the certifying agency, and was neither signed nor dated by the certifying official. 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 (requiring qualifying criminal activity for all prongs of eligibility).

The director also denied the petition because the petitioner is inadmissible to the United States under: section 212(a)(6)(A)(i) of the Act as an alien present without admission or parole; section 212(a)(7)(B)(i)(I) of the Act as a nonimmigrant without a valid passport; section 212(a)(2)(A)(i)(I) of the Act as an alien convicted of a crime involving moral turpitude; and section 212(a)(2)(B) of the Act as an alien convicted of two or more offenses for which the aggregate sentences to confinement were five or more years. The record shows that on December 1, 2009, the petitioner was convicted of grand theft in violation of section 487(a) of the California Penal Code and was sentenced to one year and four months imprisonment. The record also indicates that in 2002, the petitioner was convicted of forgery in Arkansas and sentenced to three years imprisonment; and in 2005, the petitioner was convicted of a second forgery offense in Arkansas and sentenced to five years imprisonment. We find no error in the director's determination that the petitioner's criminal convictions render him inadmissible under subsections 212(a)(2)(A)(i)(I) and (a)(2)(B) of the Act. The record also shows that the petitioner entered the United States without admission or parole and is consequently inadmissible under section 212(a)(6)(A)(i) of the Act. However, as the petitioner currently holds no nonimmigrant status, section 212(a)(7)(B)(i)(I) of the Act is inapplicable and that portion of the director's decision shall be withdrawn.

On appeal, the petitioner explains why he is unable to obtain records of the dispositions of all his arrests, but he does not contest his inadmissibility nor deny his convictions for forgery and theft. The director denied the petitioner's Form I-192 waiver application and we have no jurisdiction to review that denial. *See* 8 C.F.R. § 212.17(b)(3) (No appeal lies from the denial of a waiver request.). Consequently, the petitioner remains ineligible for U nonimmigrant classification due to his inadmissibility.

Conclusion

The petitioner failed to submit the certification required by section 214(p)(1) of the Act. The petitioner is also inadmissible to the United States and his request for a waiver of inadmissibility was denied. The petitioner is consequently ineligible for nonimmigrant classification pursuant to section 101(a)(15)(U)(i) of the Act and the appeal must be dismissed. 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.

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