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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: JUN 14 2012 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. § 101(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 its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a 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 motion 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 any motion to 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)(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.

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 regulation at 8 C.F.R. § 214.14(a)(3) defines the term *certifying official* as:

(i) 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

(ii) A Federal, State, or local judge.

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 native and citizen of Mexico, who claims to have entered the United States in or about August 1999 without inspection. On October 26, 2010, the petitioner filed a Form I-918 U petition with a copy of the *U Nonimmigrant Status Certification* (Form I-918 Supplement B) dated May 16, 2008. The director subsequently issued a Request for Evidence (RFE) to obtain, in part, a timely completed Form I-918 Supplement B. In response the petitioner submitted the original of the Form I-918 Supplement B signed by [REDACTED] a Children's Social Service Worker IV with the Department of Public Social Services/Child Protectives [sic] in Riverside, California. The petitioner explained that she was unable to provide a new Form I-918 Supplement B as [REDACTED] no longer worked at the office and she was told that a certification could not be issued by individuals who did not know about the case. The director denied the petition due to the lack of a properly completed Form I-918 Supplement B. On appeal, the petitioner asserts that neither the regulation nor the statute requires that a U visa certification be issued within the last six months; thus, the director's denial was an abuse of discretion.

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 based upon the lack of required evidence.

The petitioner filed her Form I-918 U petition on October 26, 2010 and was required to submit a Form I-918 Supplement B signed by a certifying official within the six months immediately preceding the filing of Form I-918. 8 C.F.R. § 214.14(c)(2)(i). The Form I-918 submitted by the petitioner is dated May 16, 2008, more than two years prior to the filing of the Form I-918. Moreover, it is not clear that the individual certifying the Form I-918 Supplement B is a certifying official as defined at 8 C.F.R. § 214.14(a)(3). Consequently, the Form I-918 Supplement B filed by the petitioner does not meet the requirements for a law enforcement certification described at section 214(p)(1) of the Act and at 8 C.F.R. § 214.14(c)(2)(i).

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. For this reason, her appeal must be dismissed and her petition must remain denied. However, the denial of the petitioner's instant Form I-918 U petition is without prejudice to the filing of a new Form I-918 U petition with a new Form I-918 Supplement B that meets the requirements of section 214(p)(1) of the Act and the regulation at

8 C.F.R. § 214.14(c)(2)(i). 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.