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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

Date: **APR 18 2013** 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:

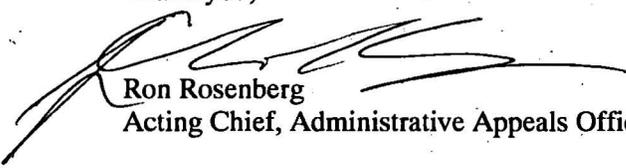
SELF-REPRESENTED

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 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 (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)(i) of the Act provides U nonimmigrant classification to aliens who have suffered substantial physical or mental abuse as a result of having been the victim of certain qualifying criminal activity and who demonstrate their past, present or future helpfulness to law enforcement officials investigating or prosecuting the criminal activity. Section 101(a)(15)(U)(iii) of the Act defines the qualifying criminal activity as including, in pertinent part, domestic violence.

Section 214(p)(1) of the Act, 8 U.S.C. § 1184(p)(1) further requires:

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 requirements 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 regulation at 8 C.F.R. § 214.14(b)(1) provides the following guidance regarding the abuse criterion:

Whether abuse is substantial is based on a number of factors, including but not limited to: The nature of the injury inflicted or suffered; the severity of the perpetrator's conduct; the severity of the harm suffered; the duration of the infliction of the harm; and the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim, including aggravation of pre-existing conditions. No single factor is a prerequisite to establish that the abuse suffered was substantial. Also, the existence of one or more of the factors automatically does not create a presumption that the abuse suffered was substantial. A series of acts taken together may be considered to constitute substantial physical or mental abuse where no single act alone rises to that level[.]

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; 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 on December 10, 1990, without being inspected, admitted or paroled by an immigration officer. On December 19, 2011, the petitioner filed a Form I-918 U petition without the requisite *U Nonimmigrant Status Certification* (Form I-918 Supplement B). The director subsequently denied the petition due to the lack of initial evidence. The director also noted further deficiencies in the evidence relating to the qualifying criteria for U nonimmigrant status at section 101(a)(15)(U)(i) of the Act. On appeal, the petitioner submits a Form I-918 Supplement B, dated May 14, 2012.

#### *Analysis*

Upon review, we find no error in the director's decision to deny the petition, as the petitioner's submission on appeal of an original Form I-918 Supplement B, dated May 14, 2012, does not warrant a withdrawal of the director's decision. The petitioner filed her Form I-918 U petition on December 19, 2011 and was required to submit a Form I-918 Supplement B as initial evidence. 8 C.F.R. § 214.14(c)(2)(i). The petitioner did not, however, submit a Form I-918 Supplement B until after the

denial of the Form I-918 U petition. In addition, this Form I-918 Supplement B, dated May 14, 2012, was not signed by the certifying official within the six months preceding the December 19, 2011 filing date of the Form I-918 U petition, as required by the regulation at 8 C.F.R. § 214.14(c)(2)(i).

Furthermore, while the director did not address at length the other eligibility requirements, upon review, the record and the Form I-918 Supplement B establish that the petitioner was the victim of qualifying criminal activity (domestic violence) and that she was helpful to the investigation and prosecution of said criminal activity. However, the petitioner has not submitted sufficient additional evidence on appeal to establish that she suffered substantial physical or emotional abuse as a result of the qualifying criminal activity. On the Form I-918 Supplement B, the certifying official described the petitioner's injury as red marks and a scratch on the left side of her face and collar bone which caused her pain. Although the petitioner provides a detailed and credible account of the incident in her November 7, 2011 statement and explains that she feels she can no longer trust other men and used to get depressed, she states that she has moved forward with her life for the sake of her children. The petitioner does not discuss any permanent or serious harm the incident caused to her appearance, health, or physical or mental soundness. The statements of the petitioner and the certifying official show that she was injured by the crime, but the statements are insufficient to demonstrate that she suffered substantial physical or mental abuse as a result of her victimization under the standard and factors explicated in the regulation at 8 C.F.R. § 214.14(b)(1).

The petitioner also is inadmissible to the United States under section 212(a)(6)(A) of the Act for being present in the United States without admission or parole, and section 212(a)(2)(A) of the Act for having committed a crime involving moral turpitude,<sup>1</sup> and has not shown that the grounds of inadmissibility have been waived through the grant of a Form I-192, Application for Advance Permission to Enter as Non-Immigrant.

*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 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.

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<sup>1</sup> The record shows that on or about June 6, 2001, the petitioner was convicted of shooting a deadly missile in violation of Florida Penal Code section 790.19. Circuit Court of the 19th Judicial Circuit, Florida, Case No.