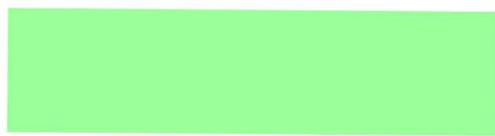


(b)(6)



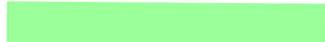
U.S. Citizenship  
and Immigration  
Services



Date: **SEP 09 2014**

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:

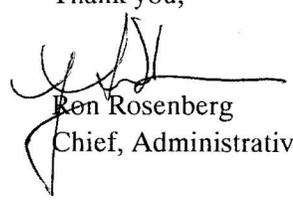
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,



Ren Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Vermont Service Center director (“the director”) denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and 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 a properly executed Form I-918 Supplement B, U Nonimmigrant Status Certification (Form I-918 Supplement B), and consequently did not meet any of the eligibility criteria for U nonimmigrant classification. In addition, the director determined that petitioner was inadmissible to the United States. On appeal, the petitioner submits an incomplete law enforcement certification.

*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 regulation at 8 C.F.R. § 214.14(c)(4), prescribes the evidentiary standards and burden of proof in these proceedings:

The burden shall be on the petitioner to demonstrate eligibility for U-1 nonimmigrant status. The petitioner may submit any credible evidence relating to his or her Form I-918 for consideration by [U.S. Citizenship and Immigration Services (USCIS)]. USCIS shall conduct a de novo review of all evidence submitted in connection with Form I-918 and may investigate any aspect of the petition. Evidence previously submitted for this or other immigration benefit or relief may be used by USCIS in evaluating the eligibility of a petitioner for U-1 nonimmigrant status. However, USCIS will not be bound by its previous factual determinations. USCIS will determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence, including Form I-918, Supplement B, "U Nonimmigrant Status Certification."

#### *Facts and Procedural History*

The petitioner is a native of Trinidad and Tobago and a citizen of Canada who was admitted to the United States on April 22, 2004 on a B2 nonimmigrant visitor's visa. The petitioner was ordered removed from the United States to Canada by an Immigration Judge on January 9, 2013. The Board of Immigration Appeals (Board) dismissed his appeal on March 20, 2013. The petitioner filed the instant Form I-918, Petition for U Nonimmigrant Status (Form I-918 U petition), on May 21, 2013, along with a Form I-918 Supplement B. The director subsequently denied the petition because the Form I-918 Supplement B was not properly executed by a certifying official. The petitioner appealed the denial of the Form I-918 U petition.

#### *Analysis*

We conduct appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). A careful review of the record reveals no error in the director's decision to deny the petition based upon lack of required initial evidence.

The petitioner failed to submit a Form I-918 Supplement B from a certifying agency that was signed by a certifying official, which is required initial evidence when filing a Form I-918 U petition. 8 C.F.R. § 214.14(c)(2)(i). According to the regulation at 8 C.F.R. § 103.2(b)(8)(ii), "[i]f all required

initial evidence is not submitted with the benefit request or does not demonstrate eligibility, USCIS in its discretion may deny the benefit request for lack of initial evidence or for ineligibility . . . .”

Consequently, the petitioner’s filing of a Form I-918 Supplement B that is not signed by a certifying official from a certifying agency fails to conform to the regulatory requirements listed at 8 C.F.R. § 214.14(c)(2)(i) for initial evidence. In addition, the signed Form I-918 Supplement B submitted on appeal also fails to comply with regulatory requirements, as it was not filed with the initial petition and also does not: (1) identify the names of the certifying official or the head of the certifying agency who purportedly signed the form; or (2) provide a statutory citation for the criminal activity investigated or prosecuted. Accordingly, as the petitioner’s late filing of Form I-918 Supplement B subsequent to the denial of his petition fails to conform to the regulatory requirements listed at 8 C.F.R. § 214.14(c)(2)(i) for initial evidence, he, therefore, has also failed to establish his eligibility 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).

*Conclusion*

The petitioner did not comply with the regulation at 8 C.F.R. § 214.14(c)(2)(i) regarding the submission of initial evidence at the time he filed his petition as required. The petitioner is consequently ineligible for nonimmigrant classification pursuant to section 101(a)(15)(U)(i) of the Act and his petition must be denied.<sup>1</sup>

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

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

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<sup>1</sup> The director also found that the record failed to demonstrate that the petitioner was admissible to the United States, but did not discuss the issue in probative detail in her decision. As the petitioner’s appeal here is being denied for failure to submit initial evidence, we also will not address this issue.