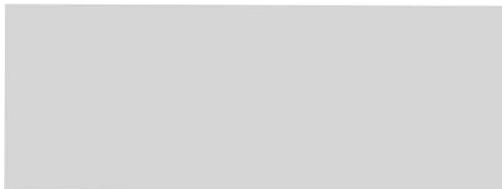




U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **AUG 07 2015**

FILE #: [REDACTED]

PETITION RECEIPT #: [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:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

for Ron Rosenberg  
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 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*

U nonimmigrant classification may be granted 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 also demonstrate, among other things, that they have been, are being, or are likely “to be helpful to a Federal, State, or local law enforcement official, to a Federal, State, or local prosecutor, to a Federal or State judge, to the Service, or to other Federal, State, or local authorities investigating or prosecuting [qualifying] criminal activity.” Section 101(a)(15)(U)(i)(I), (III) of the Act, 8 U.S.C. § 1101(a)(15)(U)(i)(I), (III).

To establish a U nonimmigrant petitioner’s helpfulness to law enforcement, section 214(p)(1) of the Act, 8 U.S.C. § 1184(p)(1) further prescribes:

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.

### *Facts and Procedural History*

The petitioner is native and citizen of El Salvador who claims to have entered the United States without inspection, admission or parole in June 2003. On October 28, 2013, the petitioner filed a Form I-918 U petition which included a Form I-918 Supplement B, signed on February 4, 2013. Because the Form I-918 Supplement B was not signed within the six months immediately preceding the filing of the Form I-918, the director subsequently denied the petition due to the lack of initial evidence. On appeal, the petitioner submits a brief in which he asserts that the [REDACTED] Police Department abused its discretion in refusing to sign another Form I-918 Supplement B for the petitioner, and that he made all reasonable attempts to provide United States Citizenship and Immigration Services (USCIS) with a properly certified Form I-918 Supplement B.

### *Analysis*

The AAO conducts appellate review on a de novo basis. Upon review, we find no error in the director's decision to deny the petition. The petitioner filed his Form I-918 U petition on October 28, 2013, and was required to submit a Form I-918 Supplement B dated within the six months immediately preceding that date. 8 C.F.R. § 214.14(c)(2)(i). The Form I-918 Supplement B the petitioner submitted, however, did not conform to the regulations as it was dated more than six months prior to the filing of the Form I-918 U petition.

On appeal, the petitioner asserts that he made all reasonable attempts to provide USCIS with a properly recertified Form I-918 Supplement B and that the original certifying agency, the [REDACTED] Police Department, abused its discretionary authority by refusing to recertify the Form I-918 Supplement B. However, USCIS lacks the authority to ignore or waive the regulatory requirement for timely-dated certification at 8 C.F.R. § 214.14(c)(2)(i).

We recognize the difficulties that a petitioner may face in obtaining a law enforcement certification, however, without the requisite certification, the petitioner cannot establish that he was helpful to law enforcement in the investigation or prosecution of qualifying criminal activity as required under section 101(a)(15)(U)(i)(III) of the Act.<sup>1</sup> 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, his appeal must be dismissed and his 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

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<sup>1</sup> Because the petitioner has failed to meet the requirement for helpfulness to law enforcement, we do not reach the other requisite grounds in this decision.

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*NON-PRECEDENT DECISION*

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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).

*Conclusion*

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.