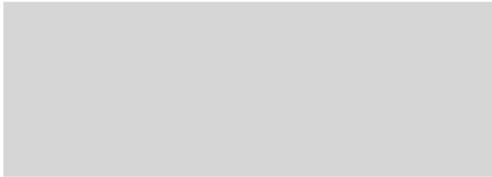




U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **AUG 21 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) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

f Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center (the director), denied the petition. 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.

The director denied the petition, finding that the petitioner did not submit required initial evidence of a properly executed Form I-918 Supplement B, U Nonimmigrant Status Certification (Form I-918 Supplement B).

Applicable Law

Section 101(a)(15)(U)(i) of the Act, 8 U.S.C. § 1101(a)(15)(U)(i), 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 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 filed the instant Petition for U Nonimmigrant Status (Form I-918) on July 22, 2013. The accompanying Form I-918 Supplement B was signed by the certifying official in Part 6 (Certification) on July 17, 2012. The director subsequently issued a Request for Evidence (RFE) for, in addition to other documents, a timely certified Form I-918 Supplement B. The petitioner responded with additional evidence which the director found insufficient to establish eligibility, and the director denied the Form I-918. The petitioner appealed the denial of the Form I-918 petition.

Analysis

We review these proceedings *de novo*. A full review of the record, including the evidence submitted on appeal, does not establish the petitioner's eligibility.

On appeal, the petitioner asserts that the certifying official who signed his Form I-918 Supplement B left the police department and the new certifying official refused to sign a new Form I-918 Supplement B because, "no one died" as a result of the crime against the petitioner. The petitioner argues that the first Form I-918 Supplement B is sufficient evidence that he was the victim of qualifying criminal activity and had been helpful in the investigation. He further contends that the current certifying official's refusal to sign a new Form I-918 Supplement B is "capricious and irrational," demonstrates bias toward the petitioner and a misunderstanding of the role of law enforcement in the U visa petition process, and is contrary to the guidance of the Department of Homeland Security as well as an order by the Arkansas Attorney General that law enforcement officials in Arkansas assist immigrant victims of qualifying crimes or crimes which are substantially similar to qualifying crimes. The petitioner also cites a report, *National Survey of Service Providers on Police Response to Immigrant Crime Victims, U Visa Certification and Language Access*, which lists reasons certifying officials give for not signing Form I-918 Supplement B. The petitioner claims that law enforcement officers make inappropriate legal conclusions about petitioners' eligibility for U nonimmigrant status in refusing to sign Form I-918 Supplement B, and that the purpose of the report is to persuade USCIS to stop requiring that a certified Form I-918 Supplement B be submitted with Form I-918 U petitions. The petitioner requests that we sustain his appeal based on his original Form I-918 Supplement B, the supporting documentation of the crime against him, and the records of his efforts to obtain a newly signed Form I-918 Supplement B.

The submission of a Form I-918 Supplement B is required by statute at section 214(p)(1) of the Act ("The petition filed by an alien under section 101(a)(15)(U)(i) shall contain a certification . . ."). As implemented by the regulation at 8 C.F.R. § 214.14(c)(2)(i), a Form I-918 U petition "must include" as initial evidence a Form I-918 Supplement B "signed by a certifying official within the six months

immediately preceding the filing of Form I-918.” Although we recognize the difficulties the petitioner has faced in obtaining a newly signed Form I-918 Supplement B, we lack authority to waive the requirements of the statute, as implemented by the regulations. *See United States v. Nixon*, 418 U.S. 683, 695-96 (1974) (stating that as long as regulations remain in force, they are binding on government officials). Accordingly, as the petitioner did not submit a properly executed Form I-918 Supplement B that conforms to the regulatory requirements listed at 8 C.F.R. § 214.14(c)(2)(i) for initial evidence, he has not established 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).

The denial of the Form I-918 petition is without prejudice to the filing of a new Form I-918 petition and supporting Form I-918 Supplement B that meets the regulatory requirements.

Conclusion

In visa petition proceedings, the petitioner bears the burden of proving eligibility for U nonimmigrant status. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013); *Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010). Here, that burden has not been met.

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