



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF I-M-C-

DATE: DEC. 18, 2015

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-918, PETITION FOR U NONIMMIGRANT STATUS

The Petitioner seeks nonimmigrant classification as a victim of certain qualifying criminal activity. Immigration and Nationality Act (the Act) § 101(a)(15)(U), 8 U.S.C. § 1101(a)(15)(U). The Director, Vermont Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

**I. 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 eligibility requirements for U nonimmigrant classification are further explained in the regulation at 8 C.F.R. § 214.14, which states, in pertinent part:

(b) *Eligibility.* An alien is eligible for U-1 nonimmigrant status if he or she demonstrates all of the following . . . :

- (1) The alien has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity. 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 even where no single act alone rises to that level[.]

.....

In addition, 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."

## II. FACTS AND PROCEDURAL HISTORY

The Petitioner is a native and citizen of Mexico who last entered the United States on May 6, 2010, without inspection, admission, or parole. The Petitioner filed the instant Form I-918, Petition for U Nonimmigrant Status on February 4, 2013. The Director denied the Form I-918 because the Petitioner did not submit a properly executed Form I-918 Supplement B, U Nonimmigrant Status Certification at the time of filing the Form I-918. The Director also denied the Form I-918 because the Petitioner did not establish that he possessed information regarding qualifying criminal activity, did not establish that he was helpful in the investigation or prosecution of qualifying criminal activity, and did not submit the required Form I-192, Application for Advance Permission to Enter as a Nonimmigrant, to overcome his grounds of inadmissibility. On appeal, the Petitioner submits a brief and additional evidence.

### III. ANALYSIS

We conduct appellate review on a *de novo* basis. A full review of the record does not establish the Petitioner's eligibility. The Petitioner's claims and the evidence submitted on appeal do not overcome the Director's grounds for denial and the appeal will be dismissed for the following reasons.

In his brief on appeal, the Petitioner does not dispute that he filed his Form I-918 on February 4, 2013, without an accompanying Form I-918 Supplement B. Instead, the Petitioner asserts that he attempted to obtain a properly executed Form I-918 Supplement B but was unable to do so because he could not find the correct person at the [REDACTED] Police Department to complete the Form I-918 Supplement B. On appeal, the Petitioner submits a properly executed Form I-918 Supplement B and a Form I-192.

The submission of a Form I-918 Supplement B is required by statute at section 214(p)(1) of the Act, which provides that, "[t]he petition filed by an alien under section 101(a)(15)(U)(i) shall contain a certification . . . ." The regulation at 8 C.F.R. § 214.14(c)(2)(i) requires that a Form I-918 "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." As provided by the regulation at 8 C.F.R. § 103.2(b)(1), a petitioner "must establish that he or she is eligible for the requested benefit at the time of filing the benefit request and must continue to be eligible through adjudication." The Petitioner did not file his Form I-918 with the required initial evidence, and 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) (as long as regulations remain in force, they are binding on government officials). As the Petitioner did not submit the required initial evidence with his Form I-918, he is ineligible 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).<sup>1</sup>

### IV. CONCLUSION

The Petitioner is ineligible for nonimmigrant classification pursuant to section 101(a)(15)(U) of the Act and the Form I-918 must remain denied. The dismissal of this appeal is without prejudice to the Petitioner filing a new Form I-918 if he obtains a properly executed Form I-918 Supplement B.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought by a preponderance of the evidence. *See* Section 291 of the Act, 8 U.S.C. § 1361; *see also 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.

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<sup>1</sup> As the Form I-918 is otherwise deniable, the remaining grounds will not be addressed.

*Matter of I-M-C-*

**ORDER:** The appeal is dismissed.

Cite as *Matter of I-M-C-*, ID# 15271 (AAO Dec. 18, 2015)