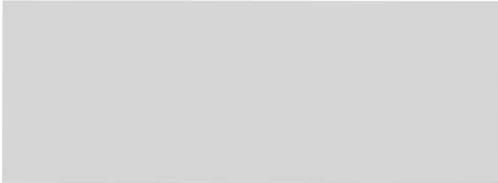


U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **JUL 27 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,

  
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 Form I-918, Petition for U Nonimmigrant Status (Form I-918 U petition), because the petitioner did not submit a Form I-918 Supplement B, U Nonimmigrant Status Certification (Form I-918 Supplement B), signed within six months prior to the filing of her Form I-918 U petition.

*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 burden of proof is on the petitioner to demonstrate eligibility for U nonimmigrant classification. U.S. Citizenship and Immigration Services (USCIS) will determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence, including the Form I-918 Supplement B. 8 C.F.R. § 214.14(c)(4). All credible evidence relevant to the petition will be considered. Section 214(p)(4) of the Act; *see also* 8 C.F.R. § 214.14(c)(4) (setting forth evidentiary standards and burden of proof).

*Facts and Procedural History*

The petitioner is a native and citizen of Mexico who claims to have entered the United States in May 1999 without inspection, admission, or parole. On August 13, 2011, she was the victim of arson. The petitioner filed the instant Form I-918 U petition on July 22, 2013. She included a Form I-918 Supplement B signed on July 17, 2012 by Lieutenant [REDACTED] [REDACTED] Police Department, [REDACTED] Arkansas (certifying official). The director issued a Request for Evidence (RFE) for the petitioner to submit a newly signed Form I-918 Supplement B and a victim impact statement. The petitioner responded to the RFE with a brief and additional evidence. She included an affidavit from her attorney, who stated that she was unable to obtain a newly signed Form I-918 Supplement B because the new certifying official at the [REDACTED] Police Department, Lieutenant [REDACTED] refused to sign it. The director found that the petitioner did not submit required initial evidence of a Form I-918 Supplement B signed within six months prior to the filing of her petition, and denied the petition accordingly. The petitioner filed a timely appeal.

*Analysis*

Upon review of the relevant evidence submitted below and on appeal, we find no error in the director's decision to deny the petition. Accordingly, the appeal will be dismissed.

In her brief filed on appeal, the petitioner asserts that Lieutenant [REDACTED] the certifying official who signed her Form I-918 Supplement B on July 17, 2012, left the [REDACTED] Police Department and the new certifying official, Lieutenant [REDACTED] refused to sign a new Form I-918 Supplement B because, according to Lieutenant [REDACTED] as recounted by counsel, "no one died" as a result of the crime against the petitioner. She alleges that the fact that Lieutenant [REDACTED] signed her first Form I-918 Supplement B is sufficient evidence that she was the victim of qualifying criminal activity and had been helpful in the investigation. She further contends that Lieutenant [REDACTED] 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 claims that a political change occurred within the [REDACTED] Arkansas police department which wrongly resulted in the petitioner's inability to obtain U nonimmigrant status despite meeting all eligibility requirements. She 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 her

appeal based on her original Form I-918 Supplement B, the supporting documentation of the crime against her, and the records of her 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 provided 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, she 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).

#### *Conclusion*

As in all visa petition proceedings, the petitioner bears the burden of proving her eligibility for U nonimmigrant status. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.14(c)(4); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013); *Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010). Here, the petitioner has not met that burden. Accordingly, the appeal will be dismissed.

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