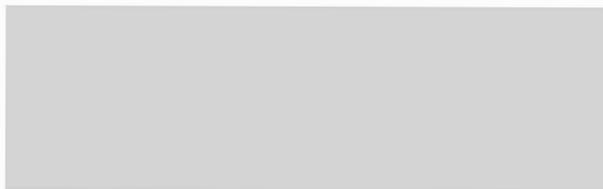




U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **JUN 09 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 (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 because the petitioner did not submit the required Form I-918 Supplement B, U Nonimmigrant Status Certification (Form I-918 Supplement B) in support of the nonimmigrant U petition (Form I-918 petition). The director further determined that the petitioner did not establish that he has been the victim of qualifying criminal activity, did not provide a signed statement describing the facts of the victimization, and did not demonstrate he was admissible to the United States. The petitioner filed a timely appeal.

*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[.]

\* \* \*

- (iii) A signed statement by the petitioner describing the facts of the victimization.

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 citizen of Mexico who claims to have last entered the United States without inspection, admission, or parole in March 2007. The petitioner filed the instant Form I-918 petition on June 9, 2014, but did not file the required Form I-918, Supplement B. The director subsequently denied the petition. The petitioner timely appealed the denial of the Form I-918 petition.

#### *Analysis*

We review these proceedings *de novo*.

On appeal, the petitioner argues that he was a victim of criminal activity perpetrated by the [REDACTED] Police Department, and "the agency that was supposed to sign the supplement was the agency that perpetuated the abuse." He asserts that the police department's failure to discipline his perpetrator "gave rise to the lack of signature on the supplement," which should "excuse the need for the signature on the supplement."

Although the petitioner asserts that as he was the victim of criminal activity committed by the [REDACTED] Police Department the requirement to have the Form I-918 Supplement B signed by a certifying official should be waived, the submission of a properly executed 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 from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating criminal activity . . ."). Moreover, as provided by the regulation at 8 C.F.R. § 214.14(c)(2)(i), a Form I-918 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." The petitioner filed a Form I-918 petition but has not provided the required initial evidence of a Form I-918 Supplement B signed by a certifying official. Although we acknowledge the petitioner's statement that he was the victim of criminal activity committed by the [REDACTED] Police Department, 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).

The director also denied the Form I-918 petition as the evidence did not demonstrate that the petitioner has been the victim of qualifying criminal activity, and the petitioner did not provide a signed statement describing the facts of the victimization, and did not demonstrate that he was admissible to the United States. As the petitioner has not overcome the director's finding that he did not submit required initial evidence with the nonimmigrant U petition, these grounds of denial will not be further discussed.

*Conclusion*

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

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); *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.