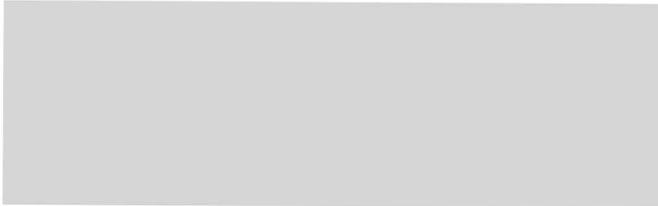




U.S. Citizenship  
and Immigration  
Services

(b)(6)



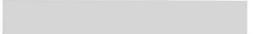
Date:

**JUN 16 2015**

FILE #:



PETITION RECEIPT #:



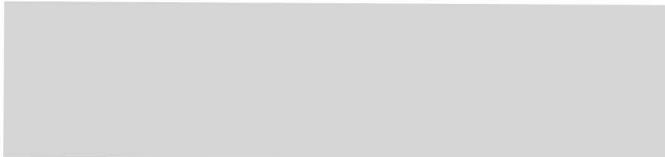
IN RE:

Petitioner:



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:



INSTRUCTIONS:

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 petition because the petitioner did not establish that she met any of the criteria for U nonimmigrant classification at section 101(a)(15)(U)(i) of the Act because the law enforcement certification that she submitted was deficient. On appeal, the petitioner submits a brief.

*Applicable Law*

Section 101(a)(15)(U) of the Act provides, in pertinent part, for U nonimmigrant classification to:

(i) subject to section 214(p), an alien who files a petition for status under this subparagraph, if the Secretary of Homeland Security determines that --

- (I) the alien has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described in clause (iii);
- (II) the alien . . . possesses information concerning criminal activity described in clause (iii);
- (III) the alien . . . has been helpful, is being helpful, or is 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 criminal activity described in clause (iii); and
- (IV) the criminal activity described in clause (iii) violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States[.]

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).

The regulation at 8 C.F.R. § 214.14(a) defines the following terms:

(2) *Certifying agency* means a Federal, State, or local law enforcement agency, prosecutor, judge, or other authority, that has responsibility for the investigation or prosecution of a qualifying crime or criminal activity. This definition includes agencies that have criminal investigative jurisdiction in their respective areas of expertise, including, but not limited to, child protective services, the Equal Employment Opportunity Commission, and the Department of Labor.

(3) *Certifying official* means:

(i) 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

(ii) A Federal, State, or local judge.

\* \* \*

Regarding the submission of initial evidence with a Form I-918 U petition, the regulation at 8 C.F.R. § 214.14(c)(2)(i) states, in part, that the certification described at section 214(p)(1) of the Act (Form I-918 Supplement B) must be signed by a certifying official and must state that: 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.

In addition, the regulation at 8 C.F.R. § 214.14(c)(4), prescribes the evidentiary standards and burden of proof in these proceedings, providing that U.S. Citizenship and Immigration Services (USCIS) “[w]ill determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence, including Form I-918, Supplement B . . . .”

#### *Facts and Procedural History*

The petitioner is a native and citizen of Mexico who claims to have entered the United States in August 1998 without inspection, admission or parole. The petitioner filed the instant Form I-918 U petition with an accompanying U Nonimmigrant Status Certification (Form I-918 Supplement B) on July 8, 2013. On February 24, 2014, the director issued a Request for Evidence (RFE) to which the petitioner responded. The director denied the Form I-918 U petition, finding the petitioner's response to the RFE insufficient to establish her eligibility because the petitioner did not submit a properly completed Form I-918 Supplement B. The petitioner has timely appealed the denial of the Form I-918 U petition and states in her appellate brief that she has met each criteria required for U nonimmigrant classification at section 101(a)(15)(U)(i) of the Act.

*Analysis*

The petitioner claims to be the victim of domestic violence perpetrated by her former spouse. Domestic violence is qualifying criminal activity under section 101(a)(15)(U)(iii) of the Act. To establish her eligibility for U nonimmigrant classification, the petitioner is required to submit a properly completed Form I-918 Supplement B signed by a certifying official within a certifying agency. *See* Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i).

The Form I-918 Supplement B that the petitioner initially submitted with her Form I-918 U petition was signed by [REDACTED] Assistant Clerk of the [REDACTED] North Carolina Clerk of Superior Court Office, on January 8, 2013. On February 24, 2014, the director issued a Request for Evidence (RFE), noting that the Form I-918 Supplement B in the record was not signed by a certifying official as defined at 8 C.F.R. § 214.14(a)(3) because Ms. [REDACTED] was a records clerk. In response, the petitioner submitted a second Form I-918 Supplement B signed by [REDACTED] District Court Judge with the North Carolina [REDACTED]. Other than identifying information about the certifying official and agency indicated at Part 2, the Form I-918 Supplement B was blank but for Part 4.5, where the certifying official stated that he had no personal knowledge of any events involving the petitioner, and that he was attaching official civil court records for a case involving the petitioner.

On appeal, the petitioner does not specifically address the deficiencies of the two Forms I-918 Supplement B contained in the record, upon which the director's decision was based. Rather, the petitioner restates her eligibility for U classification, discussing each eligibility criterion at section 101(a)(15)(U)(i) of the Act.

The petitioner does not dispute that the first Form I-918 Supplement B submitted was deficient because it was not signed by a certifying official. Although the second Form I-918 Supplement B submitted in response to the RFE was signed by a certifying official, it also is deficient for the following reasons.

The certifying official did not, as required by section 214(p) of the Act, state on the Form I-918 Supplement B that the petitioner has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of qualifying criminal activity. As previously noted, the certifying official left Part 4 of the Form I-918 Supplement B blank, but for a brief statement at Part 4.5, which states: "The undersigned has no personal recollection of events 14 year ago. The case was civil not criminal. The true and accurate copies of court records are attached." (Emphasis in original). Part 4 of the Form I-918 Supplement B contains specific questions that a certifying official must answer regarding the petitioner's helpfulness to a certifying agency in the investigation or prosecution of qualifying criminal activity. As these questions were left unanswered and the certifying official's brief statement also did not address the petitioner's helpfulness, the record contains no evidence that the petitioner has submitted a certification described at section 214(p)(1) of the Act, which is required by section 101(a)(15)(U)(i) of the Act.

The certifying official also did not provide information to establish the other eligibility criteria to include that the petitioner: was the victim of qualifying criminal activity; possessed information about her victimization; and that the criminal activity committed against her violated a law of the

United States. As noted, the Form I-918 Supplement B was left blank in all areas but for Part 2, which contains only biographical information about the certifying official and agency. The regulation at 8 C.F.R. § 214.14(c)(2)(i) provides that a certifying official “must state” that the petitioner has met the eligibility criteria at subsections 101(a)(15)(U)(i)(I)-(IV) of the Act. The certifying official’s brief statement at Part 4.5 does not satisfy the statutory and regulatory requirements.

Without the certification described at section 214(p)(1) of the Act and 8 C.F.R. § 214.14(c)(2)(i), the petitioner cannot establish her eligibility for U nonimmigrant classification. We lack the 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).

*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. Accordingly, the appeal will be dismissed.

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