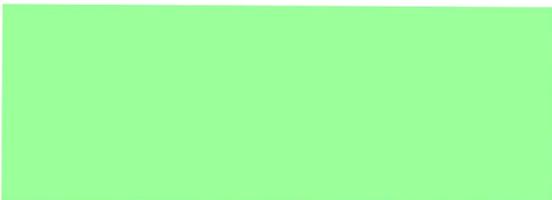




U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **MAR 09 2015** Office: VERMONT SERVICE CENTER FILE:

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)

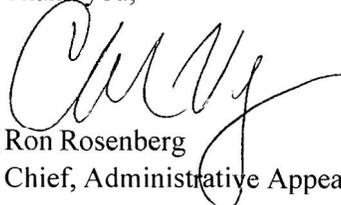
ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,


for Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Acting Director, Vermont Service Center (the director), denied the U nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and the petition will remain denied.

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 a properly executed Form I-918 Supplement B, U Nonimmigrant Status Certification (Form I-918 Supplement B) at the time of filing the nonimmigrant U petition (Form I-918 U petition). On appeal, the petitioner submits a Form I-918 Supplement B.

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 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 native and citizen of Mexico who claims she entered the United States in April of 2002 without admission, inspection, or parole. The petitioner filed the instant Form I-918 U petition on September 16, 2013, with a “U Visa Certification Form” signed more than six years earlier, on April 6, 2007. The director subsequently denied the petition because, among other things, the petitioner filed the Form I-918 U petition without submitting a properly executed Form I-918 Supplement B.¹ The petitioner has appealed the denial of the Form I-918 U petition.

Analysis

We review these proceedings *de novo*. On appeal, the petitioner submits a Form I-918 Supplement B and requests that we consider it with her Form I-918 U petition.

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.” The petitioner did not file her Form I-918 U petition with the required initial evidence, and the Form I-918 Supplement B submitted on appeal was not signed within the six-month period preceding the filing of her nonimmigrant U petition.

Accordingly, the petitioner’s filing of a Form I-918 Supplement B subsequent to USCIS’s receipt of her U petition fails to conform to the regulatory requirements listed at 8 C.F.R. § 214.14(c)(2)(i) for required initial evidence, and therefore, the petitioner has failed to establish her eligibility for U nonimmigrant classification under section 101(a)(15)(U)(i) of the Act.

Conclusion

The petitioner did not comply with the regulation at 8 C.F.R. § 214.14(c)(2)(i) regarding the submission of initial evidence at the time she filed her petition as required. The petitioner is consequently ineligible for

¹ The director noted without discussion, that in addition to failing to file the required Form I-918 Supplement B at the time of filing her nonimmigrant U petition, the petitioner did not establish that she was a victim of substantial physical or mental abuse, that she possesses information about the criminal activity, that she has been helpful to law enforcement, and that the United States has the jurisdiction to investigate/prosecute.

(b)(6)

NON-PRECEDENT DECISION

Page 4

nonimmigrant classification pursuant to section 101(a)(15)(U)(i) of the Act and her petition must remain denied. The dismissal of this appeal is without prejudice to the petitioner filing a new nonimmigrant U petition now that she has obtained the required law enforcement certification.

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.

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