

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

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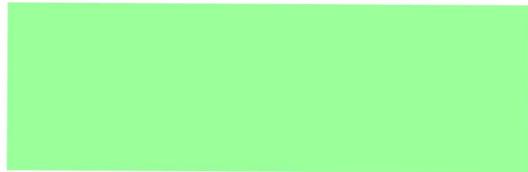


Date: **MAR 11 2015** Office: VERMONT SERVICE CENTER FILE:

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,

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 certified Form I-918 Supplement B, U Nonimmigrant Status Certification (Form I-918 Supplement B) and he therefore could not meet the eligibility criteria at section 101(a)(15)(U)(i) of the Act.

On appeal, the petitioner asserted in a May 14, 2014 letter that he has requested and intends to provide within 30 days documentation to demonstrate that the individual who signed the Form I-918 Supplement B is a certifying official. As of the date of this decision, we have received no brief or additional evidence. The record is, therefore, complete.

*Applicable Law*

Section 101(a)(15)(U) of the Act provides U nonimmigrant classification to alien victims of certain criminal activity who assist government officials in investigating or prosecuting such criminal activity.

In addition, 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(a) provides the following pertinent definitions:

(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.

\* \* \*

Further, 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 Hungary who claims to have been paroled into the United States in July 2004. The petitioner filed the instant Petition for U Nonimmigrant Status (Form I-918 U petition) with an accompanying Form I-918 Supplement B on November 27, 2013. The petitioner also filed an Application for Advance Permission to Enter as Nonimmigrant (Form I-192) on the same day. On February 5, 2014, the director issued a Request for Evidence (RFE) that the individual who signed the Form I-918 Supplement B was a certifying official as defined at 8 C.F.R. § 214.14(a)(3). The petitioner responded with additional evidence, which the director found insufficient to establish the petitioner's eligibility. Accordingly, the director denied the Form I-918 U petition and Form I-192. The petitioner appealed the denial of the Form I-918 U petition.

*Analysis*

We conduct appellate review on a *de novo* basis. Based on the evidence in the record, we find no error in the director's decision to deny the petitioner's Form I-918 U petition.

The petitioner filed his Form I-918 U petition on November 27, 2013, and was required to submit a properly executed Form I-918 Supplement B as initial evidence. See 8 C.F.R. § 214.14(c)(2)(i). The term *properly executed* includes a Form I-918 Supplement B that is signed by a certifying official. According to the regulation at 8 C.F.R. § 214.14(a)(3)(i) a *certifying official* is either 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."

The petitioner has failed to submit a Form I-918 Supplement B signed by a certifying official. The Form I-918 Supplement B submitted by the petitioner is signed by [REDACTED] Chief – Division of Investigations, [REDACTED] Florida Sheriff's Office. The director requested evidence that Chief [REDACTED] was a certifying official. In response, the petitioner submitted a letter, dated March 10, 2014, stating that he had contacted the [REDACTED] Florida Sheriff's Office and was advised that Chief [REDACTED] was the authorized certifying official at the time she signed the Form I-918 Supplement B. The petitioner indicated that he was informed by [REDACTED] who he claims to be an officer with the [REDACTED] Florida Sheriff's Office, that she had contacted the Vermont Service Center and submitted Chief [REDACTED] name as the certifying official at the time of certification of the Form I-918 Supplement B. The petitioner submitted a copy of email communication between [REDACTED] and the petitioner's counsel, reiterating the same information contained in the petitioner's March 14, 2014 letter. The petitioner requested that these documents be accepted as evidence that Chief [REDACTED] is a certifying official for the [REDACTED] Florida Sheriff's Office.

The petitioner has not submitted evidence from Sheriff [REDACTED] the head of the certifying agency, specifically designating Chief [REDACTED] as the certifying official who is authorized to issue U nonimmigrant status certification on behalf of the [REDACTED], Florida Sheriff's Office. The petitioner also failed to provide evidence of the identity and the official position of [REDACTED] and that she is authorized to act on behalf of the [REDACTED] Florida Sheriff's Office. Such evidence is required by regulation at 8 C.F.R. § 214.14(a)(3)(i) when the Form I-918 Supplement B is signed by someone other than the head of the certifying agency. The information that the petitioner provided about his conversation with [REDACTED] is without support in the record. Officer [REDACTED] does not identify his/her position within the [REDACTED] Florida Sheriff's Department, provide evidence of her contact with the Vermont Service Center, or demonstrate that the head of the certifying agency authorized her to designate signatory officials for a Form I-918 Supplement B on behalf of the [REDACTED] Florida Sheriff's Department. As the petitioner has failed to provide a properly executed Form I-918 Supplement B, he has failed to establish his eligibility for U nonimmigrant classification.

*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. However, the denial of the petitioner's instant Form I-918 U petition is without prejudice to the filing of a new Form I-918 U petition with a new Form I-918 Supplement B that meets the requirements of section 214(p)(1) of the Act and the regulation at 8 C.F.R. § 214.14(c)(2)(i).

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