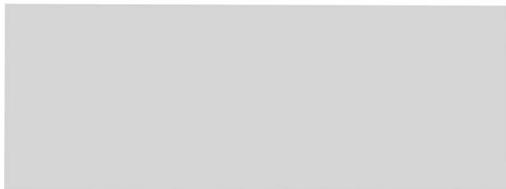




U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **MAY 18 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) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,


f Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Acting 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, finding 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 petition). The director further determined that the petitioner failed to establish that she has been the victim of qualifying criminal activity.

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[.]

* * *

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 filed the instant Form I-918 petition on March 24, 2014, with a Form I-918 Supplement that was not properly executed, as Part 2 (Agency information) was left blank and Part 6 (Certification) of the Form I-918 was not certified. 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 states that she cannot provide a properly executed Form I-918 Supplement signed by a certifying official because her perpetrator is deceased and no certifying agency will investigate criminal activity or certify a Form I-918 Supplement when the perpetrator is deceased. The petitioner further states that as her perpetrator is "unavailable" and the suicide of her perpetrator is an "exceptional circumstance" that has prevented her from obtaining the required certification, USCIS should waive the lack of certification.

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 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 the Form I-918 petition with an unsigned Form I-918 Supplement B. Although we acknowledge the petitioner's claims, 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 for failure to demonstrate that the petitioner has been the victim of qualifying criminal activity. As the petitioner has not overcome the director's finding that she failed to submit initial evidence at the time of filing the nonimmigrant U petition, this ground 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 she filed her petition. She is consequently

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NON-PRECEDENT DECISION

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ineligible for nonimmigrant classification pursuant to section 101(a)(15)(U)(i) of the Act and her 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.