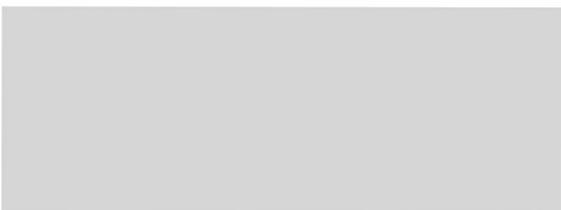




U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **MAY 18 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) 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 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 because the petitioner did not submit a Form I-918 Supplement B, U Nonimmigrant Status Certification (Form I-918 Supplement B) properly executed by a certifying official at the time of filing the nonimmigrant U petition (Form I-918 U petition). On appeal, the petitioner submits a letter and additional evidence.

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(a) provides the following pertinent definitions:

* * *

(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.

* * *

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 Guatemala who claims to have last entered the United States on May 1, 2001 without admission, inspection or parole. The petitioner filed the instant Form I-918 U petition on July 24, 2012, with an accompanying Form I-918 Supplement B. The Form I-918 Supplement B was signed on April 9, 2012, by [REDACTED] who identified himself as "chief prosecutor" and head of the certifying agency. The Form I-918 Supplement B further identifies [REDACTED] as the certifying official and lists "prosecuting attorney of record" as the name of the certifying agency. Thereafter, the director issued a April 18, 2014 Request for Evidence (RFE) for the petitioner to establish that the individual who executed the Form I-918 Supplement B is a certifying official as opposed to an attorney with a private law firm.¹ The petitioner responded with a letter from [REDACTED] Chief Deputy with the [REDACTED] Attorney's office stating that his office was unwilling to sign the Form I-918 Supplement B as his office was not responsible for prosecuting the underlying offense. The petitioner also submitted a letter stating that she also contacted the [REDACTED] Police Department as a potential signator to the Form I-918 Supplement B, but that office was unwilling to sign the document because of "the increase[d] amount of requests [the] office receives." The director subsequently denied the petition because the petitioner failed to submit a Form I-918 Supplement B properly executed by a certifying official. The petitioner timely appealed the denial of the Form I-198 U petition.

¹ The director issued a prior RFE on January 14, 2014 requesting information to establish that the petitioner suffered substantial physical or mental abuse as a result of being a domestic violence victim.

Analysis

We review these proceedings *de novo*. A full review of the record establishes no error in the director's decision.

As indicated on the instant Form I-918 Supplement B, "Prosecuting Attorney of Record" is listed as the certifying agency and [REDACTED] is identified as the certifying official; the Form I-918 Supplement B was signed by [REDACTED] self-identified as Chief Prosecutor and head of the certifying agency. As stated by the director, the certifying official and head of the certifying agency are attorneys employed by a private law firm. On appeal, the petitioner submits evidence demonstrating that Ms. [REDACTED] is employed by [REDACTED], a firm that serves as the City Attorneys for [REDACTED] Minnesota; Mr. [REDACTED] is also employed as an associate attorney by the firm. The firm of [REDACTED] is not "a Federal, State, or local law enforcement agency, prosecutor, judge," or another authority that bears any responsibility for investigating or prosecuting qualifying criminal activity, and thus, it does not meet the regulatory definition of certifying agency found at 8 C.F.R. § 214.14(a)(2). *See also* Section 214(p)(1) of the Act. Rather, the office functions primarily as a private law firm, which represents individual, corporate, and municipal clients, which is not encompassed in the definition of "certifying agency." Although the regulations allow for an "other authority that has responsibility for the . . . prosecution of a qualifying crime or criminal activity," the "authority" referred to in the regulation is modified by the clause "Federal State, or local law enforcement." The petitioner has submitted no evidence to indicate that the firm of [REDACTED] is itself a local governmental authority even if it exercises some governmental function on behalf of the local governmental authority. 8 C.F.R. § 214.14(a)(2).

Additionally, even if [REDACTED] qualifies as a certifying agency, the Form I-918 Supplement still fails to satisfy the regulatory requirements, because the record does not establish that it was properly executed by a certifying official. As referenced, a certifying official is defined by regulation at 8 C.F.R. § 214.14(a)(3) as 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," or a federal, state or local judge. Here, the record does not show that Ms. [REDACTED] or Mr. [REDACTED] who executed the Form I-918 Supplement B, is employed in any supervisory capacity by [REDACTED] but instead, the evidence in the record indicates that another attorney serves as chair of the firm's Municipal and Government Lawyers Section and the [REDACTED] Minnesota website lists a third attorney from the firm, [REDACTED], as the City Attorney. There is also no evidence from [REDACTED] or an official with the [REDACTED] Minnesota to show that Ms. [REDACTED] Mr. [REDACTED] or any other attorney from the law firm has been specifically designated to issue a Form I-918 Supplement on the City Attorney's behalf. Consequently, the Form I-918 Supplement B fails to comply with the regulatory requirements at 8 C.F.R. § 214.14(c)(2)(i), regarding required initial evidence. Accordingly, the petitioner has failed to establish her eligibility for U nonimmigrant classification under section 101(a)(15)(U)(i) of the Act. *See* subsections 101(a)(15)(U)(i)(I)-(IV) of the Act (requiring qualifying criminal activity for all prongs of eligibility).

Conclusion

The petitioner did not submit a certification described at section 214(p)(1) of the Act as explicated in the regulation at 8 C.F.R. § 214.14(c)(2)(i). The petitioner is consequently ineligible for 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 filing a new nonimmigrant U petition, should the petitioner obtain a properly executed Form I-918 Supplement B.

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.