



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF W-H-C-S-

DATE: SEPT. 2, 2015

APPEAL OF DIRECTOR, VERMONT SERVICE CENTER DECISION

PETITION: FORM I-918, PETITION FOR U NONIMMIGRANT STATUS

The Petitioner seeks nonimmigrant classification as a victim of certain qualifying criminal activity. See INA § 101(a)(15)(U), 8 U.S.C. § 1101(a)(15)(U). The Director, Vermont Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

I. 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 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[.]

.....

(b)(6)

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.”

## II. FACTS AND PROCEDURAL HISTORY

The Petitioner filed the instant Form I-918, Petition for U Nonimmigrant Status (Form I-918) on February 25, 2013, with a Form I-918 Supplement B, U Nonimmigrant Status Certification (Form I-918 Supplement B) that was not timely certified, as Part 6 (Certification) of the Form I-918 Supplement B was certified on August 9, 2012. The Director subsequently issued a Request for Evidence (RFE) for an updated or newly issued certification. The Petitioner timely responded with additional evidence which the director found insufficient to establish eligibility, and the Director denied the Form I-918. The Petitioner timely appealed the denial of the Form I-918 petition.

## III. ANALYSIS

We review these proceedings *de novo*.

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 initially filed the Form I-918 with a Form I-918 Supplement B that was not certified within the six months prior to the filing of the Form I-918. In response to the RFE, the Petitioner provided a new Form I-918 Supplement B in which Part 2 (Agency Information) was left blank and Part 6 (Certification) of the Form I-918 was not certified.

On appeal, the Petitioner submits a photocopy of a new Form I-918 Supplement B that was certified by [REDACTED] of the [REDACTED] Police Department, Community Service, on August 29, 2014. However, the Petitioner does not provide an explanation for the submission of a photocopy or otherwise explain the lack of the original document and signature of the certifying official. *See* 8 C.F.R. § 103.2(a)(2) (“[A]n acceptable signature on a benefit request . . . is one that is either handwritten or, for benefit requests filed electronically as permitted by the instructions to the form, in electronic format”). Moreover, the new Form I-918 Supplement B was not certified within the six months prior to the filing of the Form I-918 petition. Finally, even if properly certified, the

Petitioner has not complied with the regulation at 8 C.F.R. § 214.14(c)(2)(i) regarding the submission of required initial evidence.

#### IV. 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. He is consequently ineligible for nonimmigrant classification pursuant to section 101(a)(15)(U)(i) of the Act and his petition must remain denied.

In visa petition proceedings, the petitioner bears the burden of proving eligibility for U nonimmigrant status. 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.

Cite as *Matter of W-H-C-S-*, ID# 13251(AAO Sept. 2, 2015)