



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

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

MATTER OF M-F-G-

DATE: SEPT. 24, 2015

CERTIFICATION OF 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* Immigration and Nationality Act (INA) § 101(a)(15)(U); 8 U.S.C. § 1101(a)(15)(U). The Director, Vermont Service Center, denied the petition. The Petitioner appealed that decision and we remanded the matter to the Director for entry of a new decision to be certified to us if the result was adverse to the Petitioner. The matter is now before us on certification from the Director.¹ The Director's decision will be affirmed.

The certification sets forth the single ground for the denial of the petition: that the Form I-918, Supplement B, U Nonimmigrant Status Certification, was not signed by a certifying official.

I. APPLICABLE LAW

Section 101(a)(15)(U) of the Act provides, in pertinent part, for U nonimmigrant classification to:

- (i) subject to section 214(p), an alien who files a petition for status under this subparagraph, if the Secretary of Homeland Security determines that --
 - (I) the alien has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described in clause (iii);
 - (II) the alien . . . possesses information concerning criminal activity described in clause (iii);
 - (III) the alien . . . has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement official, to a Federal, State, or local

¹ Certifications by field office or service center directors may be made to us "when a case involves an unusually complex or novel issue of law or fact." 8 C.F.R. § 103.4(a)(1). The regulation at 8 C.F.R. § 103.4(a)(4) states as follows: "*Initial decision.* A case within the appellate jurisdiction of the Associate Commissioner, Examinations, or for which there is no appeal procedure may be certified only after an initial decision." The following subsection of that same regulation states as follows: "*Certification to [AAO].* A case described in paragraph (a)(4) of this section may be certified to the [AAO]." 8 C.F.R. § 103.4(a)(5).

prosecutor, to a Federal or State judge, to the Service, or to other Federal, State, or local authorities investigating or prosecuting criminal activity described in clause (iii); and

- (IV) the criminal activity described in clause (iii) violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States;

Domestic violence is listed as qualifying criminal activity in clause (iii) of section 101(a)(15)(U) of the Act.

Section 214(p) of the Act, 8 U.S.C. § 1184(p), further prescribes, in pertinent part:

(1) *Petitioning Procedures for Section 101(a)(15)(U) Visas*

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 certification must state that: the person signing the certificate is 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 is a Federal, State, or local judge; the agency is a Federal, State, or local law enforcement agency, or prosecutor, judge or other authority, that has responsibility for the detection, investigation, prosecution, conviction, or sentencing of qualifying criminal activity; the applicant has been a victim of qualifying criminal activity that the certifying official's agency is investigating or prosecuting; the petitioner possesses information concerning the qualifying criminal activity of which he or she has been a victim; the petitioner has been, is being, or is likely to be helpful to an investigation or prosecution of that

qualifying criminal activity; and the qualifying criminal activity violated U.S. law, or occurred in the United States, its territories, its possessions, Indian country, or at military installations abroad.

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.

In addition, 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 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 is a native and citizen of El Salvador who claims to have last entered the United States in June 1997 without admission, inspection, or parole. The Petitioner filed the instant Form I-918, Petition for U Nonimmigrant Status with an accompanying Form I-918 Supplement B on June 12, 2012. The Director denied the petition on January 6, 2014 and the Petitioner appealed the decision. On October 10, 2014, we issued our decision finding that the Petitioner demonstrated that she had been helpful to the certifying agency in investigating the qualifying criminal activity, withdrawing the Director's decision, and remanding to the Director for entry of a new decision with instructions that, if the Director's subsequent decision was adverse to the Petitioner, that the matter

be certified to us for further review. On December 19, 2014, the Director issued a Request for Evidence (RFE) that the individual who signed the Form I-918 Supplement B was the head of the certifying agency or was specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications. The Petitioner did not respond to the Director's RFE. Because the signatory of the Form I-918 Supplement B was not shown to be designated as a certifying official, the Director again denied the Form I-918 and certified the decision to us.

III. ANALYSIS

The Petitioner did not submit a Form I-918 Supplement B signed by a certifying official. Accordingly, the Form I-918 Supplement B is not a properly-executed law enforcement certification required by section 214(p)(1) of the Act. According to the regulation at 8 C.F.R. § 103.2(b)(8)(ii), “[i]f all required initial evidence is not submitted with the benefit request or does not demonstrate eligibility, USCIS in its discretion may deny the benefit request for lack of initial evidence or for ineligibility” Despite two requests by the Director, the Petitioner has not submitted any evidence that the signatory occupies a supervisory role with the certifying agency or has otherwise been designated as a certifying official by the agency. We recognize the difficulties that a petitioner may face in obtaining a law enforcement certification; however, USCIS lacks the authority to waive the statutory requirement for the certification at section 214(p)(1) of the Act. As the Petitioner has failed to provide a Form I-918 Supplement B that conforms to the regulatory requirements listed at 8 C.F.R. § 214.14(c)(2)(i), she has failed to establish her eligibility for U nonimmigrant classification.

IV. CONCLUSION

As the Petitioner has failed to submit the certification required by section 214(p)(1) of the Act, she is ineligible for nonimmigrant classification pursuant to section 101(a)(15)(U)(i) of the Act and her petition must be denied.

ORDER: The initial decision of the Director is affirmed, and the petition is denied.

Cite as *Matter of M-F-G-*, ID#14401 (AAO Sept. 24, 2015)