



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

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

MATTER OF A-D-

DATE: JAN. 27, 2016

APPEAL 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 (the Act) § 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 provides for U nonimmigrant classification to alien victims of certain criminal activity who assist government officials in investigating or prosecuting such criminal activity.

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).

According to 8 C.F.R. § 214.14(a)(2), a 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.” A “certifying official” is defined at 8 C.F.R. § 214.14(a)(2) as “[t]he 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.”

Regarding the application procedures for U nonimmigrant classification, the regulation at 8 C.F.R. § 214.14(c) states, in pertinent part:

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(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[.]

We conduct appellate review on a *de novo* basis. The burden of proof is on the petitioner to demonstrate eligibility for U nonimmigrant classification, and U.S. Citizenship and Immigration Services (USCIS) will determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence, including the Form I-918 Supplement B, U Nonimmigrant Status Certification. 8 C.F.R. § 214.14(c)(4). All credible evidence relevant to the petition will be considered. Section 214(p)(4) of the Act; *see also* 8 C.F.R. § 214.14(c)(4) (setting forth evidentiary standards and burden of proof).

## II. RELEVANT FACTS AND PROCEDURAL HISTORY

The Petitioner, a native and citizen of Haiti, filed the Form I-918, Petition for U Nonimmigrant Status, on September 9, 2008. The Director issued a Notice of Intent to Deny (NOID) the Form I-918, indicating that the Petitioner had not established that he was the victim of qualifying criminal activity. The Director noted that the Petitioner submitted a Form I-918 Supplement B signed by a notary public rather than a qualified certifying official. Additionally, the Director stated that the supporting evidence the Petitioner submitted did not establish that he was the victim of qualifying criminal activity. The Director explained that, because the Petitioner had not established that he was the victim of qualifying criminal activity, he also could not meet the remaining eligibility requirements for U nonimmigrant status specified a subsections 101(a)(15)(U)(i)(I)-(IV) of the Act. The Director provided the Petitioner an opportunity to submit a properly signed Form I-918 Supplement B, as well as additional evidence.

In response to the NOID, the Petitioner submitted a letter from a medical clinic, a statement regarding the requirement that he submit a properly certified Form I-918 Supplement B, a statement describing his efforts to obtain the signature of a certifying official on Form I-918 Supplement B, a copy of an unsigned Form I-918 Supplement B, and additional evidence. The Director found this evidence insufficient to establish that the Petitioner is eligible for U nonimmigrant status and denied the Form I-918. On appeal, the Petitioner submits a statement.

## III. ANALYSIS

### A. Claimed Criminal Activity

The relevant evidence in the record of proceedings does not establish that the Petitioner is the victim of qualifying criminal activity. The Petitioner has not submitted a properly signed Form I-918 Supplement B, which is required initial evidence. Instead, he submitted a Form I-918 Supplement B signed by a notary public, [REDACTED]. At Part 2 of the Form I-918 Supplement B, the Petitioner listed the name

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of the certifying agency as [REDACTED] is not a law enforcement agency, prosecutor, judge, or other authority with responsibility for the investigation or prosecution of a qualifying crime or criminal activity and, accordingly, is not a certifying agency. *See* 8 C.F.R. § 214.14(a)(2). Moreover, while the “U Visa Certification Form” submitted by the Petitioner and signed by [REDACTED] indicates that [REDACTED] is an “Other Investigating Authority,” there is no indication as to where [REDACTED] derives such authority and nor is there any information on the “U Visa Certification Form” or elsewhere regarding the relationship, if any, between [REDACTED]. The Petitioner also submitted a statement in which he asserted that the [REDACTED] Florida Police Department refused to sign the Form I-918 Supplement B.

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 U petition “must include” as initial evidence a Form I-918 Supplement B “signed by a certifying official . . .” As [REDACTED] is not a certifying agency, [REDACTED] who signed the Form I-918 Supplement B, is not a certifying official. *See* 8 C.F.R. § 214.14(a)(3).

On appeal, the Petitioner asserts that, pursuant to the regulation at 8 C.F.R. § 245.24(e)(1),<sup>1</sup> he can meet the requirement at section 214(p)(1) of the Act by submitting an affidavit describing his efforts to obtain a certified Form I-918 Supplement B. The Petitioner contends that the Director incorrectly found that 8 C.F.R. § 245.24(e)(1) applies only to applicants for adjustment of status who have already been granted U nonimmigrant status. The Petitioner alleges that some individuals who previously obtained U nonimmigrant status were able to do so without submitting a certified Form I-918 Supplement B, and that “new applicants face the same objection by the law enforcement as the previous ones under the same law . . .”

The regulation at 8 C.F.R. § 245.24(e)(1) does not apply to the procedures for granting U nonimmigrant status through the filing of a Form I-918. Rather, 8 C.F.R. § 245.24(e)(1) relates to applications for adjustment of status, filed on Form I-485, Application to Register Permanent Residence or Adjust Status, by individuals who already hold U nonimmigrant status through an approved Form I-918. The regulation at 8 C.F.R. § 245.24(e)(1) describes the ways in which adjustment of status applicants may demonstrate that, since obtaining U nonimmigrant status, they have continued to assist law enforcement in the investigation or prosecution of qualifying criminal activity. This regulation does not apply to the Petitioner’s case because he has not obtained U nonimmigrant status through an approved Form I-918.

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<sup>1</sup> In his statement on appeal, the Petitioner cites 8 C.F.R. § 245.24(c)(1), which does not exist in the regulation. In his response to the NOID, the Petitioner cited 8 C.F.R. § 245.24(e)(1) in support of his assertion that he can submit an affidavit in place of a certified Form I-918 Supplement B. The Petitioner appears to have intended to cite 8 C.F.R. § 245.24(e)(1) again on appeal, and we will refer to that portion of the regulation in our analysis.

The regulation that applies to the Petitioner's case is 8 C.F.R. § 214.14(c)(2)(i), which provides that a Form I-918 U petition "must include" as initial evidence a Form I-918 Supplement B signed by a certifying official. Although we recognize the Petitioner's effort to obtain a signed Form I-918 Supplement B, 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) (stating that as long as regulations remain in force, they are binding on government officials). Accordingly, as the Petitioner did not submit a properly executed Form I-918 Supplement B that conforms to the regulatory requirements listed at 8 C.F.R. § 214.14(c)(2)(i) for initial evidence, he cannot demonstrate his helpfulness under section 214(p)(1) of the Act, and ultimately also cannot establish eligibility for U nonimmigrant classification under section 101(a)(15)(U)(i)(I) of the Act.

**B. Substantial Physical or Mental Abuse**

As the Petitioner did not establish that he was the victim of qualifying criminal activity, he has also not established that he suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity, as required by subsection 101(a)(15)(U)(i)(I) of the Act.

**C. Possession of Information Concerning Qualifying Criminal Activity**

As the Petitioner did not establish that he was the victim of qualifying criminal activity, he has also not established that he possesses information concerning such a crime or activity, as required by subsection 101(a)(15)(U)(i)(II) of the Act.

**D. Helpfulness to Authorities Investigating or Prosecuting the Qualifying Criminal Activity**

As the Petitioner did not submit a properly certified Form I-918 Supplement B, he has also not established that he has been, is being or is likely to be helpful to a federal, state, or local law enforcement official, prosecutor, federal or state judge, USCIS or other federal, state or local authorities investigating or prosecuting qualifying criminal activity, as required by section 214(p)(1) and subsection 101(a)(15)(U)(i)(III) of the Act.

**E. Jurisdiction**

As the Petitioner did not establish that he was the victim of qualifying criminal activity, he also has not established that the qualifying criminal activity occurred in the United States (including Indian country and U.S. military installations) or in the territories or possessions of the United States, or violated a U.S. federal law that provides for extraterritorial jurisdiction to prosecute the offense in a U.S. federal court, as required by subsection 101(a)(15)(U)(i)(IV) of the Act.

**IV. CONCLUSION**

The Petitioner has not established that he was the victim of a qualifying crime or criminal activity, as required by sections 101(a)(15)(U)(i) and (iii) of the Act.

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As in all 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; 8 C.F.R. § 214.14(c)(4); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the Petitioner has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.

Cite as *Matter of A-D-*, ID#15495 (AAO Jan. 27, 2016)