



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

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

MATTER OF A-R-M-R-

DATE: NOV. 18, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner seeks “U-1” nonimmigrant classification as a victim of qualifying criminal activity. *See* Immigration and Nationality Act (the Act) sections 101(a)(15)(U) and 214(p), 8 U.S.C. §§ 1101(a)(15)(U) and 1184(p). The U-1 classification affords nonimmigrant status to victims of certain crimes who assist authorities investigating or prosecuting the criminal activity.

The Director, Vermont Service Center, denied the petition. The Director concluded the Petitioner did not submit a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B) at the time of filing the Form I-918, Petition for U Nonimmigrant Status (U petition).

The matter is now before us on appeal. On appeal, the Petitioner submits a Supplement B and claims that he is eligible for U nonimmigrant classification as a victim of a qualifying crime.

Upon *de novo* review, we will dismiss the appeal.

#### I. APPLICABLE LAW

Section 101(a)(15)(U) of the Act 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 burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010). A petitioner may submit any evidence for us to consider in our *de novo* review; however, we determine, in our sole discretion, the credibility of and the weight to give that evidence. *See* section 214(p)(4) of the Act; 8 C.F.R. § 214.14(c)(4).

## II. ANALYSIS

Based on the evidence in the record, we find no error in the Director’s decision to deny the Petitioner’s U petition based upon lack of required initial evidence. The Petitioner filed the instant U petition on March 1, 2016, without an accompanying Supplement B, which caused the Director to deny the U petition. On appeal, the Petitioner submits a Supplement B signed by a certifying official on April 22, 2016, after the March 1, 2016, filing date of his U petition. The regulation at 8 C.F.R. § 214.14(c)(2)(i) requires that at the time of filing, a U petition “must include” as initial evidence a Supplement B “signed by a certifying official within the six months immediately *preceding* the filing of Form I 918.” (Emphasis added). 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). As the Petitioner did not submit as initial evidence a Supplement B signed by a certifying official within the 6-month period prior to the March 1, 2016, filing date of his U petition, he is ineligible for U status due to the lack of required initial evidence.

## III. CONCLUSION

In visa petition proceedings, it is the Petitioner’s burden to establish eligibility for the immigration benefit sought. *See* section 291 of the Act, 8 U.S.C. § 1361; *see also Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here that burden has not been met.

**ORDER:** The appeal is dismissed.

Cite as *Matter of A-R-M-R-*, ID# 12645 (AAO Nov. 18, 2016)