



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

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

MATTER OF F-C-C-

DATE: NOV. 21, 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 Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that the Petitioner was not eligible for the visa, as he had not filed a Form I-918, Supplement B, U Nonimmigrant Status Certification (Supplement B) when he filed the U petition. The Director additionally stated that the Petitioner was inadmissible to the United States.

The matter is now before us on appeal. On appeal, the Petitioner submits a letter. Although he states that a copy of the Supplement B is attached, no Supplement B appears in the record of proceedings. The Petitioner states that he is a direct victim of the criminal activity because of his daughter's age and the nature of the crime.

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

I. 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 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).

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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

The Petitioner is a native and citizen of Mexico. He filed the U petition without an accompanying Supplement B, and the Director consequently denied the U petition. On appeal, the Petitioner states that he is attaching a copy of the Supplement B that was previously submitted. The evidence submitted on appeal does not overcome the Director's ground for denial.

The submission of the 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 U petition "must include" a Supplement B as initial evidence. Here, the evidence does not show that the Petitioner filed his U petition with the required initial evidence, and 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). Accordingly, the Petitioner is not eligible 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).

The Director additionally noted that the Petitioner is inadmissible to the United States. For persons seeking U nonimmigrant status who are inadmissible to the United States, the regulations at 8 C.F.R. §§ 212.17, 214.14(c)(2)(iv) require the filing of a Form I-192, Application for Advance Permission to Enter as Nonimmigrant (waiver application) in conjunction with the U petition in order to waive any applicable ground(s) of inadmissibility. In any subsequent filing, the Petitioner must file a waiver application.

The Petitioner did not submit the law enforcement 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). He is consequently ineligible for nonimmigrant classification pursuant to section 101(a)(15)(U) of the Act.

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III. CONCLUSION

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act; *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 F-C-C-*, ID# 19653 (AAO Nov. 21, 2016)