



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

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

In Re: 22022513

Date: AUG. 8, 2022

Appeal of Nebraska Service Center Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks “U-1” nonimmigrant classification as a victim of qualifying criminal activity at sections 101(a)(15)(U) and 214(p) of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1101(a)(15)(U) and 1184(p). The Director of the Nebraska Service Center denied the Form I-918, Petition for U Nonimmigrant Status (U petition). The matter is now before us on appeal. On appeal, the Petitioner resubmits previously submitted evidence, additional evidence and a brief reasserting his eligibility for U-1 nonimmigrant classification. The Administrative Appeals Office reviews the questions in this matter *de novo*. *See Matter of Christo’s Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

The U-1 classification affords nonimmigrant status to victims of qualifying criminal activity who suffer substantial physical or mental abuse as a result of the crime. Section 101(a)(15)(U)(i) of the Act. To be eligible for U-1 nonimmigrant status, the petitioner must also possess information about the qualifying crime and be helpful to law enforcement officials in their investigation or prosecution of the crime. *Id.*

As required initial evidence, petitioners must submit a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), from a law enforcement official certifying the petitioners' helpfulness in the investigation or prosecution of the qualifying criminal activity perpetrated against them. Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i). U.S. Citizenship and Immigration Services (USCIS) has sole jurisdiction over U petitions. 8 C.F.R. § 214.14(c)(1). Although petitioners may submit any relevant, credible evidence for the agency to consider, USCIS determines, in its sole discretion, the credibility of and weight given to all the evidence, including the Supplement B. Section 214(p)(4) of the Act; 8 C.F.R. § 214.14(c)(4).

**II. ANALYSIS**

The Petitioner filed his U petition in November 2015 along with a Supplement B signed and certified in April 2015 by the Deputy Prosecutor from the [redacted] Prosecutor’s Office in [redacted] Indiana (certifying official). The Petitioner submitted a second Supplement B signed and certified in

February 2016 by the Assistant Supervising Attorney from the [REDACTED] Prosecutor's Office. In October 2021, the Director issued a notice of intent to deny (NOID) informing the Petitioner that he did not submit the required initial evidence as neither Supplement B form was signed by a certifying official within the six months prior to the filing of his U petition. In response to the NOID, the Petitioner submitted excerpts from the Adjudicator's Field Manual (AFM), several USCIS memoranda, and a copy of an Informational Letter stating that he established *prima facie* eligibility for U nonimmigrant status. The Director acknowledged the evidence and denied the U petition, concluding that neither Supplement B forms were signed and certified within six months prior to the filing of the Petitioner's U petition, as required by 8 CFR 214.14(c)(2)(i).

On appeal, the Petitioner asserts that he is eligible for U nonimmigrant status. He also submits a newly executed Supplement B signed and certified by the Deputy Prosecuting Attorney from the [REDACTED] Prosecutor's Office in January 2022.

As stated above, the submission of a Supplement B is required by statute at section 214(p)(1) of the Act ("The petition filed . . . under section 101(a)(15)(U)(i) [of the Act] shall contain a certification . . ."). Moreover, as provided by the regulation at 8 C.F.R. § 214.14(c)(2)(i), 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" the U petition. Our review of the record does not demonstrate that the Petitioner submitted a properly executed Supplement B— one submitted within six months prior to the filing of his U petition. Because the Petitioner did not file his U petition with the required initial evidence, the Petitioner is not eligible for U nonimmigrant status under section 101(a)(15)(U) of the Act.<sup>1</sup>

The Petitioner argues on appeal that we should reopen his U petition because his failure to include a properly executed Supplement B was due to "extraordinary circumstances" beyond his control. We note however, that USCIS' regulations do not provide an "extraordinary circumstance" exception for a Supplement B; the regulation is clear that the Supplement B must be submitted as initial evidence with the U petition, and the certifying official must sign it within the six-month period immediately preceding the filing of the U petition. We lack the 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) (holding that both governing statutes and their implementing regulations hold "the force of law" and must be adhered to by government officials).

The Petitioner further argues that the Director ignored USCIS policy, U visa guidance and Congress' intent for the U visa program by denying his U petition without first issuing a request for evidence (RFE) regarding the lack of a properly executed Supplement B.<sup>2</sup> However, at the time of the Director's decision, neither the statute, regulations, nor relevant USCIS policy required the issuance of an RFE where a properly executed Supplement B was not submitted at filing. *See* 8 C.F.R. § 103.2(b)(8)(ii) (stating that, "[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

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<sup>1</sup>Although a new Supplement B was submitted on appeal, the Petitioner is not able to cure the deficiency, as the Supplement B submitted on appeal was not signed within the requisite six-month period prior to the filing of the U petition as required by 8 C.F.R. § 214.14(c)(2)(i).

<sup>2</sup> In support of his argument, the Petitioner cites chapter 39.1(c)(2)(v) of the Adjudicator's Field Manual and the U.S. Department of Homeland Security U Visa Law Enforcement Resource Guide.

or for ineligibility .... “); *see also* USCIS Policy Memorandum PM-HQSCOP 70/13, Denial of Petition for U Nonimmigrant Status for Lack of Required Certification; Revisions to Adjudicator's Field Manual (AFM), New Chapter 39.1(c)(2)(v) (AFM Update AD10-05) 2 (Jan. 15, 2010) and Adjudicator's Field Manual Chapter 39.1(c)(2)(v), <https://www.uscis.gov/sites/default/files/document/policy-manual-afm/afm39-external.pdf> (stating that, “[i]f the Form 1-918 was filed on or after November 1, 2009, the petition should be denied for lack of initial evidence if it does not include Form 1-918 Supplement B”).<sup>3</sup> Accordingly, the Director properly denied the U petition without first issuing an RFE in accordance with the current guidance because the Petitioner failed to submit, as required initial evidence, a properly executed Supplement B at filing. While we recognize the hardship that this may cause the Petitioner and his son, as explained above, we lack authority to waive the requirements of the statute, as implemented by the regulations.

### III. CONCLUSION

The Petitioner filed his U petition without including, as required initial evidence, a properly executed Supplement B, as section 214(p)(1) of the Act and 8 C.F.R. § 214.14(c)(2)(i) require. Accordingly, the Petitioner has not established his eligibility for U nonimmigrant status under section 101(a)(15)(U) of the Act.<sup>4</sup>

**ORDER:** The appeal is dismissed.

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<sup>3</sup> After the decision of the Director, chapter 39.1 of the Adjudicator's Field Manual was partially superseded by 3 USCIS Policy Manual C, <https://www.uscis.gov/policymanual>. As of the date of this decision, the content of Adjudicator's Field Manual Chapter 39.1(c)(2)(v) has not been incorporated into the corresponding chapter within the USCIS Policy Manual entitled “Documentation and Evidence.”

<sup>4</sup> This decision is without prejudice to the filing of a new U petition by the Petitioner with a properly executed Supplement B signed within the six months preceding any such filing.