



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

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

In Re: 22678652

Date: DEC. 16, 2022

Appeal of Vermont 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 Vermont Service Center denied the Petitioner’s Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that the record lacked the requisite Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), and accordingly that she had not established that she was a victim of a qualifying crime. The Director then denied the Petitioner’s subsequent combined motion to reopen and to reconsider this denial.

The Petitioner now appeals the Director’s dismissal of this motion to us and submits a brief and evidence. We review the questions in this matter de novo. *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

Section 101(a)(15)(U)(i) of the Act provides U-1 nonimmigrant classification to victims of qualifying crimes who suffer substantial physical or mental abuse as a result of the offense. These victims must also possess information regarding the qualifying crime and be helpful to law enforcement officials in their investigation or prosecution of it. *Id.*

The petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. 8 C.F.R. § 214.14(c)(4); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). As a part of meeting this burden, a petitioner must submit a Supplement B, from a law enforcement official certifying a petitioner’s helpfulness in the investigation or prosecution of the qualifying criminal activity. Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i). The Supplement B must be signed by the certifying official within the six months immediately preceding the filing of the U petition. 8 C.F.R. § 214.14(c)(2)(i). The petitioner must also submit a statement of the facts of the victimization. 8 C.F.R. § 214.14(c)(2)(iii).

II. ANALYSIS

In September 2016, the Petitioner filed a U petition on the basis of her victimization from abuse by her former spouse at the same time she filed a Form I-290B, Notice of Appeal or Motion, requesting that the Director reopen a U petition filed in November 2013.¹ The Director rejected this Form I-290B because it was not submitted with the proper filing fee and returned materials, including an original Supplement B. The Director also denied the September 2016 U petition, because the Petitioner had not submitted a Supplement B or the requisite statement. The Petitioner then filed a combined motion to reopen and to reconsider the Director's denial; the Director dismissed this combined motion. The Petitioner now appeals the Director's dismissal of the combined motion to reopen and to reconsider to us.

On appeal, the Petitioner contends that the Director erred in concluding that the record lacked an original Supplement B, resulting in the Director's erroneous denial of her U petition on that basis. The Petitioner asserts that an original Supplement B was submitted as part of her second U petition, but that this original Supplement B was returned with the rejected Form I-290B. The Petitioner references a September 2016 letter, a copy of which is submitted with her appeal, stating that in this letter "we submitted a new Form I-918 application with accompanying documents for [the Petitioner]... **including an original I-918B dated 06/06/2016.**" (emphasis in original). The Petitioner further contends that in November 2016, she sent an original Supplement B dated 06/06/2016 as part of a letter and package of evidence, a copy of which is also provided on appeal. The Petitioner also argues that contrary to the Director's conclusion, she provided the requisite affidavit describing her victimization with her September 2016 submission.

It is the Petitioner's burden to establish eligibility for the classification sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369 at 375. Here the Petitioner must demonstrate, by a preponderance of the evidence, that the Director incorrectly dismissed her combined motion to reopen and to reconsider when concluding that the record below did not include the required Supplement B and the Petitioner's initial statement regarding her victimization. Upon *de novo* review of the record, the Petitioner has not done so. As the Director stated in dismissing the Petitioner's joint motion, and as the Petitioner acknowledges on appeal, the original Supplement B dated June 2016 that was returned to her as part of the rejection of her appeal of her November 2013 U petition.² This Supplement B therefore was not in the record below.

The record also contains two similar, but different, cover letters: one for the appeal of the Petitioner's denied November 2013 U petition, and one for submission of her September 2016 U petition. In dismissing the motion to reopen, the Director noted the difference in these cover letters, a copy of which the Petitioner submitted on motion, and concluded that one of the letters appeared to have been altered. On appeal, the Petitioner contends that the Director's conclusion was in error. Upon review, we agree as the record reflects that each of these letters was intended for a different benefit, and will withdraw that portion of the Director's decision.

¹ The record reflects that in November 2013, the Petitioner filed a U petition on the basis of an incident of domestic abuse perpetrated by her former spouse. The Director denied the initial U petition in July 2015 because the Petitioner did not submit the requisite Supplement B or statement describing the facts of her victimization.

² The Petitioner also acknowledges on appeal that an original Supplement B, dated May 2015, which she intended to provide in response to the Director's notice of intent to deny her November 2013 U petition, was in fact not submitted.

The Petitioner also contends on appeal that the Director erred in concluding that the record below lacked the required statement describing her victimization. A review of the record does not show that this statement was submitted with the September 2016 U petition as required by regulation at 8 C.F.R. § 214.14(c)(2)(iii).

For the foregoing reasons, the Petitioner has not demonstrated on appeal that the Director erred in dismissing her combined motion to reopen and to reconsider.

ORDER: The appeal is dismissed.