



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

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

In Re: 23981980

Date: DEC. 19, 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 under 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 Form I-918, Petition for U Nonimmigrant Status (U petition). The matter is now before us on appeal. On appeal, the Petitioner asserts his eligibility for U nonimmigrant status.

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.*

A “victim of qualifying criminal activity” is defined as an individual who has “suffered direct and proximate harm as a result of the commission of qualifying criminal activity.” 8 C.F.R. § 214.14(a)(14). “Qualifying criminal activity” is “that involving one or more of” the 28 types of crimes listed at section 101(a)(15)(U)(iii) of the Act or “any similar activity in violation of Federal, State, or local criminal law.” Section 101(a)(15)(U)(iii) of the Act; 8 C.F.R. § 214.14(a)(9). The term “‘any similar activity’ refers to criminal offenses in which the nature and elements of the offenses are substantially similar to the statutorily enumerated list of criminal activities” at section 101(a)(15)(U)(iii) of the Act. 8 C.F.R. § 214.14(a)(9).

U.S. Citizenship and Immigration Services (USCIS) has sole jurisdiction over U petitions, and petitioners bear the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.14(c)(1), (4); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). As a part of meeting this burden, petitioners must submit a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), from a law enforcement official certifying their 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). Petitioners must also provide a statement describing the facts of their victimization as well as any additional evidence they want USCIS to consider to establish that they are victims of qualifying criminal activity and have otherwise satisfied the remaining eligibility criteria. 8 C.F.R. § 214.14(c)(2)(ii). Although petitioners may submit any evidence for the agency to consider, USCIS determines, in its sole discretion, the credibility of and weight given to all of 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, a native of Mexico, unlawfully entered the United States in or around January 2000. He filed the instant U petition in September 2016. The Director issued a request for evidence (RFE) in September 2021, requesting a Form I-192, Application for Advance Permission to Enter as a Nonimmigrant (Form I-192), the Petitioner's statement describing the facts of his victimization, the Petitioner's criminal records, and information concerning the certifying official and agency which completed the Supplement B.

The Petitioner responded to the RFE, and submitted among other things, a copy of a Form I-192 previously filed in December 2018, but rejected in March 2019, due to the denial of the corresponding fee waiver request; and a letter from counsel explaining that this same Form I-192 was resubmitted to USCIS in December 2020 along with the proper fee. In May 2022, the Director denied the U petition finding only that the Petitioner was inadmissible, and therefore could not be granted U nonimmigrant status. The Director noted that the Petitioner's Form I-192 filed in December 2018, was rejected due to the denial of the fee waiver, and returned to counsel. Therefore, the Petitioner remained inadmissible.

On appeal, the Petitioner submits a copy of the rejected December 2018 Form I-192. The Petitioner admits that he is inadmissible under section 212(a)(6)(A)(i) of the Act – alien present without admission or parole.¹ The Petitioner acknowledges that the Form I-192 was rejected, but claims it was resubmitted along with a check for \$930.00² in December 2020. However, the Petitioner did not provide a copy of a cancelled check, or a USCIS receipt notice for this resubmitted Form I-192. And the record does not contain an original Form I-192. A search of USCIS electronic systems does not indicate that the Petitioner refiled his Form I-192. In the RFE, the Director informed the Petitioner of his inadmissibility grounds and instructed the Petitioner to submit a Form I-192 with the proper fee or a fee waiver. To date, the Petitioner has not complied with this request.

The regulation at 8 C.F.R. § 214.1(a)(3)(i) provides the general requirement that all nonimmigrants must establish their admissibility or show that any grounds of inadmissibility have been waived at the time they apply for admission to, or for an extension of stay within, the United States. For U nonimmigrant status in particular, the regulations at 8 C.F.R §§ 212.17, 214.14(c)(2)(iv) require the filing of a Form I-192 to waive a ground of inadmissibility. On appeal, the Petitioner has not overcome

¹ We note that the Director determined that the Petitioner was additionally inadmissible under INA section 212(a)(9)(B)(i)(II) of the Act – non-lawful permanent resident present in the United States for one year or more after April 1, 1997, and 212(a)(9)(C)(i)(I) of the Act – alien unlawfully present for one year in the aggregate after April 1, 1997, and entered or attempted to re-enter without being admitted.

² The proper USCIS filing fee at the time.

the reason for the Director's denial. Because the Petitioner is inadmissible and did not file his U petition with the required Form I-192, he is ineligible for U nonimmigrant status under section 101(a)(15)(U) of the Act.

ORDER: The appeal is dismissed.