



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

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

In Re: 23862712

Date: DEC. 20, 2022

Motion on Administrative Appeals Office Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks “U-1” nonimmigrant classification 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), and we summarily dismissed the Petitioner’s appeal. The matter is now before us on motion to reopen and reconsider. Upon consideration of all the evidence submitted, we will grant the motion to reopen and remand the matter to the Director for the issuance of a new decision.

A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). We cannot grant a motion that does not meet applicable requirements. *See* 8 C.F.R. § 103.5(a)(4).

Section 101(a)(15)(U)(i) of the Act provides U-1 nonimmigrant classification to victims of qualifying criminal activity who suffer substantial physical or mental abuse as a result of the crime, possess information regarding the crime, and have been, are being, or are likely to be helpful to law enforcement officials “investigating or prosecuting” the crime. *Id.*

To establish U-1 eligibility, a petitioner must submit, as required initial evidence, a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), signed by a designated law enforcement official within six months immediately preceding the filing of the U petition, certifying, among other factors, the 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 signature page of the Supplement B must contain the original signature of the certifying official, as explained in the form’s instructions. *See* Instructions for Form I-918, Petition for U Nonimmigrant Status (Form I-918 Instructions), at 4 (Jan. 15, 2013 ed.) (stating that “the signature on the [Supplement B] must be original”); *see also* 8 C.F.R. § 103.2(a)(1) (providing that “[e]very form, benefit request, or other document must be submitted . . . and executed in accordance with the form instructions” and that a “form’s instructions are . . . incorporated into the regulations requiring its submission”).

Although a petitioner may submit any evidence for us 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).

The issue before us is whether the Petitioner has submitted new facts supported by documentary evidence sufficient to warrant reopening his appeal or established that our decision to dismiss the appeal was based on an incorrect application of law or USCIS policy. On motion, we will remand the matter to the Director based on the following analysis.

In July 2016, the Petitioner filed his U petition with a Supplement B signed and certified by the Captain, Investigative Services Division of the [REDACTED] Sheriff's Office (certifying official). The Director issued a request for evidence in August 2021 seeking an "updated or newly issued" Supplement B containing an original signature from a certification official, because the Supplement B in the record "was not signed within six (6) months immediately preceding the submission" of the U petition. In response, the Petitioner submitted a "newly, complete, signed electronic copy" of the Supplement B, signed by the First Assistant District Attorney of the [REDACTED] District Attorney's Office, dated January 6, 2022. The Director denied the petition, concluding that the Petitioner had not established eligibility for the benefit sought because the Supplement B submitted in response to the request for evidence did not contain an original signature from the certifying official. In June 2022, this office summarily dismissed the Petitioner's appeal.

On motion, the Petitioner asserts that this office improperly and without basis summarily dismissed the appeal on the erroneous conclusion that he had not filed a legal brief; he maintains that a legal brief was filed timely but USCIS failed to forward the document and evidence to this office for review and consideration. The Petitioner also contends that the [REDACTED] Sheriff's Office changed its internal regulations and protocols and "disallows the issuance of any further U-visa re-certifications" and thus, the Petitioner was not able to obtain an updated or newly issued Supplement B from the [REDACTED] Sheriff's Office in response to the Director's request for evidence. Rather, the Petitioner contacted another certifying enforcement agency, the [REDACTED] District Attorney's Office, who agreed to issue a new Supplement B on behalf of the Petitioner's U petition. The Petitioner submitted the "newly, complete, signed electronic copy of the" Supplement B, "instead of the original ink form" and "an explanation as to why an electronic copy was being submitted in accordance with the memo released by USCIS on March 2020 titled "USCIS Announces Flexibility in Submitted Required Signatures During COVID-19 National Emergency.'" The Petitioner maintains that the "original document was to have been mailed from the [REDACTED] District Attorney's Office on the same day as well."

The record contains a Supplement B, dated January 6, 2022, from the First Assistant District Attorney of [REDACTED] District Attorney's Office, that appears to include an original signature. The record also contains a January 2022 letter confirming that said individual "approved" the Petitioner's "U Visa I-918B Certification request." As the Applicant has provided evidence that the Director does not appear to have had the opportunity to review, we will remand the matter to the Director to consider the evidence, and further determine whether the Applicant has established that he merits approval of his U adjustment application.

ORDER: The motion to reopen is granted, and the matter is remanded for the entry of a new decision consistent with the foregoing analysis.