



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

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

In Re: 19698307

Date: FEB. 14, 2022

Appeal of Vermont Service Center 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). The matter is now before us on appeal. On appeal, the Petitioner submits new evidence, evidence previously in the record, and a brief. The Administrative Appeals Office reviews 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.*

As a part of establishing eligibility for U-1 nonimmigrant classification, a petitioner must submit, as required initial evidence, a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), from a law enforcement official certifying a petitioner’s helpfulness in the investigation or prosecution of the qualifying criminal activity.¹ 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). Moreover, the certifying official’s signature on the Supplement B must be an original. *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”).

¹ The Supplement B also gives the certifying agency the opportunity to describe the crime, the victim’s helpfulness, and the victim’s injuries.

U.S. Citizenship and Immigration Services (USCIS) has sole jurisdiction over U petitions. 8 C.F.R. § 214.14(c)(4). The petitioner bears 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)(4); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). 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).

II. ANALYSIS

The Petitioner filed his U petition in October 2015 along with a photocopy of a Supplement B signed and certified in June 2015 by an Assistant Special Agent in Charge from the Office of the Inspector General (OIG) within the Department of Homeland Security (DHS) (certifying official). The Supplement B indicated the Petitioner was the victim of criminal activity involving or similar to “Extortion,” but did not otherwise provide a specific statutory citation for the criminal activity that was investigated or prosecuted. In response to the Director’s request for additional evidence (RFE) for a properly signed Supplement B, the Petitioner submitted, among other things, an updated Supplement B signed by the same certifying official in January 2021 (January 2021 Supplement B). The signature on this Supplement B was again photocopied, but this time the photocopied signature was traced with an ink pen. Additionally, this Supplement B added citations to 18 U.S.C. section 1343 (fraud by wire, radio, or television) and 18 U.S.C. section 1346 (scheme or artifice to defraud). The Director denied the petition concluding that the Petitioner did not establish that he filed a properly executed Supplement B, with the original signature of the certifying official, as required initial evidence with his U petition. Additionally, the Director also concluded that the record did not establish that the Petitioner was the victim of a qualifying crime that had been detected, investigated or prosecuted as perpetrated against him by law enforcement, or that he had suffered substantial physical or mental abuse on account of such crime.²

On appeal, the Petitioner submits a third Supplement B with an original signature that was signed and certified by the certifying official in August 2021. The new Supplement B on appeal does not overcome the Director’s decision because it was not submitted with the U petition as required initial evidence. Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i). Moreover, the regulation specifically requires a Supplement B that is signed within the six-month period immediately preceding the filing of the U petition in order to satisfy initial evidence requirements. 8 C.F.R. § 214.14(c)(2)(i); *see also* New Classification for Victims of Criminal Activity; Eligibility for “U” Nonimmigrant Status, 72 Fed. Reg. 53014, 53023 (Sept. 17, 2007) (explaining that the six-month requirement was established to “seek a balance between encouraging the filing of petitions and preventing the submission of stale certifications.”). The Petitioner has not identified, and we are unaware of, any authority that would permit the AAO or USCIS to disregard its own regulations regarding the filing and initial evidence requirements for the U petition. We lack the authority to waive the requirements

² As the lack of a properly executed Supplement B filed as initial required evidence is dispositive of the Petitioner’s appeal, we decline to reach the other grounds for the Director’s denial and hereby reserve the Petitioner’s appellate arguments regarding those additional grounds. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

of the statute, as implemented by the regulations. *See United States v. Nixon*, 418 U.S. 683, 695-96 (1974) (explaining that as long as regulations remain in force, they are binding on government officials). Here, although the new Supplement B has an original signature, which was lacking in the previous Supplement B forms submitted before the Director, it was not filed as initial required evidence, as it was submitted for the first time on appeal, and also does not satisfy the requirement that the Supplement B be signed by the certifying official within the six months immediately preceding the filing of the U petition, as it was signed in August 2021, over six years *after* the Petitioner filed his U petition in June 2015.

Additionally, on appeal, the Petitioner proffers email correspondence between his attorney and the certifying official pre-dating his January 2021 Supplement B submitted before the Director. The Petitioner maintains that this correspondence indicates the certifying official gave permission to the Petitioner's attorney to print an emailed copy of the January 2021 Supplement B and trace over the official's photocopied signature with a pen in an attempt to satisfy the original signature requirement as the official was unable to sign the document before the expiration of the RFE response deadline. Our review of the correspondence does not establish that the certifying official expressly authorized the tracing of his signature. He notes only "Absolutely" in response to two consecutive emails from counsel, one requesting the signed Supplement B to be emailed to counsel and the second asking for permission to "sign an original signature over the ink signature." Regardless, even if such authorization was provided, the January 2021 Supplement B does not satisfy the initial evidence requirements. The applicable regulations require that immigration benefit requests, such as the instant U petition, comply with the form's instructions. 8 C.F.R. § 103.2(a)(1); *see also United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265 (1954) (explaining that immigration regulations carry the force and effect of law); *Nixon*, 418 U.S. at 695-96 (regulations that remain in force are binding on government officials). The Form I-918 Instructions in effect at the time of filing the petition clearly indicate that "the signature on the [Supplement B] must be original." *See Instructions for Form I-918, Petition for U Nonimmigrant Status (Form I-918 Instructions)*, at 4 (Jan. 15, 2013 ed.). Here, while the referenced email correspondence indicates that the photocopied signature on the January 2021 Supplement B was that of the certifying official, the Supplement B itself still lacks an original signature by the certifying official and therefore does not comply with the form instructions for U petitions.

The Petitioner also asserts that the original 2015 Supplement B, a copy of which he submitted with his petition, is lost because it was in the possession of his former counsel who was disbarred, and he submits copies of his former attorney's disbarment records. He further notes that while 8 C.F.R. §103.2(b)(2) allows for the submission of secondary evidence when certain required evidence is unavailable or non-existent, there is no secondary evidence that can satisfy the evidentiary requirement for an original Supplement B. Accordingly, the Petitioner maintains that, since the original Supplement B was lost due to no negligence on his part, the ratified signature on the January 2021 Supplement B should have been accepted for "equitable" reasons as a "proper certification." However, we have no authority to apply the judicially devised doctrine of equitable estoppel to preclude a USCIS component from undertaking a lawful course of action that it is empowered to pursue by statute and regulation. *Matter of Hernandez-Puente*, 20 I&N Dec. 335, 338-39 (BIA 1991). Estoppel is an equitable form of relief that is available only through the courts and there is no delegation of authority, statute, regulation, or other law that permits us to apply this doctrine to the cases before us. *Id.*

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. Although we do not seek to diminish the hardship to the Petitioner that this may cause, we lack authority to waive the requirements of the statute, as implemented by the regulations. *Nixon*, 418 U.S. at 695-96.

III. CONCLUSION

Although we acknowledge the Petitioner was the unfortunate victim of a crime, he has not established that he provided a Supplement B with the original signature of the certifying official executed within the six months immediately preceding the filing of his U petition, as required.³ As such, he has not established his eligibility for U-1 nonimmigrant status.

ORDER: The appeal is dismissed.

³ This decision is without prejudice to the filing of a new U petition by the Petitioner with a properly executed Supplement B.