



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

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

In Re: 23133569

Date: NOV. 18, 2022

Appeal of Nebraska 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 Nebraska Service Center (Director) denied the Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that the Petitioner did not submit a timely executed or properly completed Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B). On appeal, the Petitioner submits additional evidence and argues that a policy change at the certifying agency disallows the reissuance of a Supplement B. 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).

II. ANALYSIS

The Petitioner, a native and citizen of Mexico, filed the instant U petition in December 2016. With his U petition, he provided a Supplement B signed and certified in April 2016, by an official from the [redacted] Police Department [redacted]. In October 2021, the Director issued a request for evidence (RFE) requesting a Form I-192, Application for Advance Permission to Enter as a Nonimmigrant (Form

I-192), and an updated or newly issued Supplement B because the one initially submitted was not signed within six months immediately preceding the submission of the U petition. The Director also noted that the Supplement B did not include the statutory citation concerning the qualifying criminal activity and requested either a properly signed Supplement B listing the statutory citation of the qualifying criminal activity; or a letter from the certifying official, police report(s), indictment(s), and/or conviction document(s) or any credible evidence indicating the statutory citation that was investigated or prosecuted. The Petitioner responded to the RFE with a letter from counsel stating that he could not obtain a new Supplement B due to a policy change by [redacted] that [redacted] refused to issue a corrected Supplement B with the statutory citation; and that U.S. Citizenship and Immigration Services (USCIS) delayed in informing the Petitioner that his Supplement B was flawed which affected his ability to obtain a new Supplement B from [redacted]. In March 2022, the Director denied the U petition. The Director acknowledged the receipt of the Form I-192, and the letter from counsel, but concluded that the Petitioner did not submit a Supplement B signed within six months immediately preceding the submission of the U petition, as required by the regulations.

On appeal, the Petitioner submits a letter from counsel, a news article discussing the best practices to help immigrant crime victims; documentation concerning the U visa certification process from [redacted] the [redacted] Sheriff's Office, and the [redacted] District Attorney's Office; and electronic correspondence between [redacted] and counsel indicating that [redacted] will not re-certify a Supplement B upon issuance of an RFE from USCIS as recommended by the [redacted] Commissioner's Court, because not all law enforcement agencies were consulted in the model policy. The Petitioner argues that the high volume of requests for certifications from [redacted] has resulted in their refusal to issue a new or updated Supplement B, and if the Petitioner had received an RFE years earlier, he could have complied with the request. He further argues that he "should not be prejudiced by: (a) [redacted] error and omission of the statutory citation; (b) [redacted] harmful internal and arbitrary protocols of not issuing corrected certifications; or (c) USCIS' delay in issuing a belated and untimely RFE." The Petitioner states that USCIS should use its discretion and approve the U petition *nunc pro tunc*.¹

The regulations provide that the Supplement B must be "signed . . . within the six months immediately preceding the filing of the [U petition,]" and describes the initial evidence requirements for a U petition. 8 C.F.R. § 214.14(c)(2)(i). Thus, a Supplement B that is not signed within the six-month period prior to the filing of the U petition does not satisfy initial evidence requirements. *Id.*; *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."). Here, the Supplement B was certified in April 2016 and was submitted with the U petition in December 2016, eight months after it was certified, a fact that the Petitioner does not contest. While the Petitioner claims that he cannot obtain a new Supplement B because [redacted] has a policy disallowing re-certifications, it was incumbent on the Petitioner to submit the Supplement B within six months of certification. We are sympathetic to the Petitioner's circumstances considering the procedures instituted by [redacted]. However, in the absence of a timely executed Supplement B, the Petitioner has not satisfied initial evidence requirements, and we lack the authority to waive the

¹ We note that on appeal, the Petitioner has not provided any evidence of the statutory citations concerning the qualifying criminal activity.

requirements of the regulations. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265 (1954) (stating that immigration regulations carry “the force and effect of law”).

III. CONCLUSION

The Petitioner has not established that he submitted a Supplement B signed by the appropriate law enforcement official within the six months immediately preceding the filing of his U petition, and he has thus not established his eligibility for U nonimmigrant status under section 101(a)(15)(U) of the Act.²

ORDER: The appeal is dismissed.

² This decision is without prejudice to the Petitioner’s filing of a new U petition including, as initial required evidence, a properly executed Supplement B.