



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

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

In Re: 26180655

Date: APR. 14, 2023

Appeal of Nebraska 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. *See* Immigration and Nationality Act (the Act) sections 101(a)(15)(U) and 214(p), 8 U.S.C. §§ 1101(a)(15)(U) and 1184(p). The U-1 nonimmigrant classification affords nonimmigrant status to victims of certain crimes who assist authorities investigating or prosecuting the criminal activity.

The Director of the Nebraska Service Center denied the Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that the Petitioner did not submit a properly executed Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), and he could therefore not establish he was the victim of qualifying criminal activity, possessed information about the qualifying criminal activity, or was helpful to law enforcement in the investigation or prosecution of the qualifying criminal activity. The Director dismissed a subsequently filed motion to reopen and reconsider for not meeting the respective motion requirements. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). 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**

To establish eligibility for U-1 nonimmigrant classification, petitioners must show that they have suffered substantial physical or mental abuse as a result of having been the victim of qualifying criminal activity, possess information concerning the qualifying criminal activity, have been helpful, are being helpful, or are likely to be helpful to law enforcement authorities investigating or prosecuting the qualifying criminal activity, and that the qualifying criminal activity occurred in the United States or its territories or possessions. Section 101(a)(15)(U)(i) of the Act.

A U petition must be filed with a Supplement B from a law enforcement official certifying that the petitioner was a victim of qualifying criminal activity that the certifying agency is investigating or prosecuting, possesses information about the crime, and “has been, is being, or is likely to be helpful”

in the investigation or prosecution of the crime. Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i). The Supplement B must be signed by the relevant law enforcement 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 Guatemala, filed his U petition on November 22, 2016. With his U petition, the Petitioner submitted a Supplement B signed on February 9, 2016, by an official from the [REDACTED] Police Department (certifying agency). The Director issued a request for evidence (RFE) on February 4, 2022, which provided that the Supplement B was not signed within the six months immediately preceding the filing of the U petition, and requested an updated or newly issued Supplement B. In response to the RFE, the Petitioner explained that the RFE was issued more than five years after the original submission of the U petition, the RFE should have been issued earlier, and the certifying agency’s latest policy was to no longer reissue a Supplement B. On July 19, 2022, the Director denied the U petition, concluding that the Petitioner did not submit a properly executed Supplement B, as required. The Director determined without a properly executed Supplement B, the Petitioner could not meet his burden of proof that he was the victim of qualifying criminal activity, possessed information about the qualifying criminal activity, or was helpful to law enforcement in the investigation or prosecution of the qualifying criminal activity. Therefore, he was found to have not met the eligibility requirements for U-1 nonimmigrant classification. The Petitioner filed a motion to reopen and reconsider and the Director dismissed the motions for not meeting the respective motion requirements.

On appeal, the Petitioner asserts that we should consider that the RFE was issued more than five years after the original submission of the U petition and if the RFE was issued immediately, he could have complied with the request. He states that we should also consider the original purpose of the U visa program, which is to assist victims of crime, and the refusal by the certifying agency to reissue a Supplement B is a violation of the program’s purpose, a violation of human rights, and a misinterpretation of regulations and law. He further mentions that we have the authority to exercise discretion in this case, as he should not be prejudiced by USCIS’ onerous delay in issuing the RFE and the certifying agency’s harmful and arbitrary protocols.

8 C.F.R. § 214.14(c)(2)(i) provides that a Supplement B must be “signed. . . within the six months immediately preceding the filing of the [U petition.]” The regulation indicates that 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. *See 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.”). USCIS instructs law enforcement officials that the Supplement B “will be valid for six months from the date of signature” and that if an individual does not file the U petition within six months, they “will need to obtain a new Supplement B from the certifying agency.” *Instructions for Supplement B, U Nonimmigrant Status Certification*, <https://www.uscis.gov/sites/default/files/document/forms/i-918supbinstr.pdf>. Here, the record shows that the Supplement B did not satisfy initial evidence requirements, because at the time of filing the U petition on November 22, 2016, more than six months had passed since the signing of the Supplement B on February 9, 2016.

We acknowledge the Petitioner's assertions on appeal and are sympathetic to the frustration incurred by the length of time to receive the RFE and the inability to obtain an updated Supplement B from the certifying agency. 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 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"). Consequently, the Petitioner has not complied with 8 C.F.R. § 214.14(c)(2)(i) and is therefore ineligible for U-1 nonimmigrant classification on this basis. Additionally, he is ineligible for U-1 nonimmigrant classification because without a properly executed Supplement B, he cannot establish he was the victim of qualifying criminal activity, possessed information about the qualifying criminal activity, or was helpful to law enforcement in the investigation or prosecution of the qualifying criminal activity.

**ORDER:** The appeal is dismissed.