U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 26378665

Date: APR. 18, 2023

Appeal of Vermont Service Center Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks "U-1" nonimmigrant classification under the 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 Director of the Vermont Service Center denied the Form I-918, Petition for U Nonimmigrant Status (U petition), and the matter is now before us on appeal. On appeal, the Petitioner submits a brief and additional evidence. A 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). 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.

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 meeting this burden, a petitioner must submit 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. 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). Although a petitioner may submit any evidence for us to consider, we determine, in our 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 Petitioner, a citizen of India, filed the instant U petition in October 2017. In September 2022, the Director denied the U petition for lack of initial required evidence, as the petition was not accompanied by a properly executed Supplement B. On appeal, the Petitioner submits two Supplements B, one executed in May 2017 and another in October 2017. Both are signed by the Chief of Police of the [redacted] Police Department in Indiana. Through counsel, the Petitioner explains that when he filed the U petition, he inadvertently left the Supplement B out of the package. The Petitioner claims that when he realized his mistake, he sent the Supplement B to the Vermont Service Center (VSC) shortly after filing his U petition.[1] A review of the record does not show that any Supplement B was received by the VSC.

[1] The Petitioner does not state which one of the Supplements B he failed to submit, or which one he later submitted.

As stated above, the submission of a Supplement B is required by statute at section 214(p)(1) of the Act ("The petition filed . . . under section 101(a)(15)(U)(i) [of the Act] shall contain a certification . . . ."). Moreover, as provided by the regulation at 8 C.F.R. § 214.14(c)(2)(i), a U petition "must include" as initial evidence, a Supplement B "signed by a certifying official within the six months immediately preceding the filing of" the U petition. Our review of the record does not demonstrate that a Supplement B was filed with the Petitioner's original submission. Because the Petitioner did not file his U petition with the required initial evidence, he is ineligible for U nonimmigrant status under section 101(a)(15)(U) of the Act. Although the Petitioner submits copies of two Supplements B on appeal, this submission does not cure the deficiency in the record, as the Supplement B must be submitted with the initial filing. We recognize the harsh outcome in this case, but we lack the authority to waive the requirements of the statute, as implemented by the regulations. *See United States v. Nixon,* 418 U.S. 683, 695-96 (1974) (holding that both governing statutes and their implementing regulations hold "the force of law" and must be adhered to by government officials). Accordingly, the Petitioner has not established his eligibility for U nonimmigrant status under section 101(a)(15)(U) of the Act. [2]

ORDER: The appeal is dismissed.

[2] We note that the Petitioner may at any time file a U petition with a properly executed Supplement B signed within the six months preceding any such new filing.