



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

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

In Re: 27803422

Date: AUG. 28, 2023

Appeal of Vermont 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 classification affords nonimmigrant status to victims of certain crimes who assist authorities investigating or prosecuting the criminal activity.

The Director of the Vermont 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), with the U petition, as required. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner sub`mits a brief and additional evidence.

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 El Salvador, filed her U petition on March 27, 2017. With her U petition, the Petitioner submitted a Supplement B signed on July 12, 2016, by an official from the [redacted] District Attorney's Office (certifying agency). The Director issued a request for evidence (RFE) on June 24, 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 she initially filed a U petition in December 2016 with the July 2016 Supplement B, which was denied in March 2017, without first issuing a request for evidence (RFE) or Notice of Intent to Deny, concluding that the Petitioner had not submitted a Supplement B with that U petition. As a result, she filed a new U petition in March 2017 with the same July 2016 Supplement B. The Petitioner contended that the Director was incorrect in stating that the Supplement B was not signed within the six months immediately preceding the filing of the U petition because it had been previously submitted in December 2016. In February 2023, the Director denied the U petition, concluding that the Petitioner did not submit a properly executed Supplement B, as required. The Director acknowledged the Petitioner's argument that the Supplement B had been filed with a previous U petition in December 2016, but determined that this U petition was filed in March 2017 and the submitted Supplement B was not signed within the six months immediately preceding the submission of the U petition as required by regulation.

On appeal, the Petitioner re-asserts that the July 2016 Supplement B was submitted in December 2016 with a previous U petition, and thus was signed within the six months preceding the submission of a U petition. The Petitioner further contends that the Director erroneously denied the December 2016 U petition, concluding that a Supplement B had not been submitted, because she did submit the July 2016 Supplement B with that U petition in December 2016.

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 with 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 in March 2017, more than six months had passed since the signing of the Supplement B in July 2016.

We acknowledge the Petitioner's assertions on appeal that the July 2016 Supplement B had been submitted with the U petition filed in December 2016. However, the December 2016 U petition was denied in March 2017 and the Petitioner did not appeal that decision. Instead, the Petitioner filed a

new U petition in March 2017, which reset the six-month requirement for the Supplement B. Therefore, the July 2016 Supplement B did not meet the requirements of the regulations at the time of filing the March 2017 U petition. As such, 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, she is ineligible for U-1 nonimmigrant classification because without a properly executed Supplement B, she cannot establish she 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.