



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

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

In Re: 24645583

Date: JAN. 27, 2023

Motion on Administrative Appeals Office Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks “U-1” nonimmigrant classification as a victim of qualifying criminal activity 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 denied the Form I-918, Petition for U Nonimmigrant Status (U petition). The Director concluded that the Petitioner did not submit a timely executed Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B) signed within the six months immediately preceding submission of the U petition. The Director concurrently denied the Petitioner’s Form I-192, Application for Advance Permission to Enter as Nonimmigrant (waiver application) due to the denial of the underlying U petition. The Petitioner filed an appeal of the Director’s decision denying his U petition with our office. The appeal was summarily dismissed as we did not receive a supporting brief and the appeal did not otherwise specify an erroneous conclusion of law or statement of fact in the unfavorable decision. The Petitioner has filed a motion to reconsider our decision. Upon review, we will dismiss the motion.

**I. LAW**

A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and establishes eligibility for the benefit sought. The Petitioner bears the burden of proof to establish eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010).

**II. ANALYSIS**

Although the Petitioner has submitted new facts and legal arguments sufficient to meet the motion to reconsider requirements and overcome the summary dismissal of the appeal, the evidence in the record is ultimately insufficient to establish eligibility for the requested benefit.

#### A. Grounds for Dismissal of Appeal Overcome on Motion

The Petitioner's Form I-290B appeal indicated that a brief or additional evidence would be filed within 30 days. The form did not otherwise specify any erroneous conclusion of law or statement of fact in the Director's denial. As we did not receive a brief or additional evidence, we summarily dismissed the Petitioner's appeal. On motion, the Petitioner submits a brief and supporting evidence specifying errors of law and fact in the underlying decision. This documentation is sufficient to overcome the grounds for our summary dismissal of the appeal. Accordingly, we consider the merits of the motion to reconsider below.

#### B. Eligibility for U Nonimmigrant Status

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 credible and reliable information concerning the qualifying criminal activity; and have been helpful, are being helpful, or are likely to be helpful to law enforcement authorities investigating or prosecuting the qualifying criminal activity. Section 101(a)(15)(U)(i) of the Act.

As required initial evidence, petitioners must submit a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), from a law enforcement official certifying the petitioner's credible and reliable information regarding, and helpfulness in the investigation or prosecution of, the qualifying criminal activity perpetrated against them. 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).

The Petitioner filed the U petition on May 9, 2016, as the victim of an aggravated assault. A Supplement B signed by the [redacted] Police Department ([redacted] PD) on August 31, 2015, accompanied the U petition. The Director issued a request for evidence (RFE) advising the Petitioner that the Supplement B was not signed within the six months immediately preceding the filing of the U petition. The Supplement B also lacked a statutory citation specifying the section of criminal law investigated or prosecuted by [redacted] PD. Therefore, the Petitioner was notified that an updated or newly-issued Supplement B was needed.

In response to the RFE, the Petitioner outlined the concerted efforts undertaken to procure the updated Supplement B. The Petitioner included correspondence from [redacted] PD confirming that the request for an updated certification was denied. [redacted] PD reiterated their departmental policy of not reissuing Supplement B certifications where the original certification was allowed to expire, even where the Supplement B contained other flaws such as a lack of statutory citation. Ultimately, the Petitioner did not provide an updated Supplement B for consideration.

The Director denied the petition, concluding that the Petitioner did not establish that U.S. Citizenship and Immigration Services (USCIS) received the Supplement B within six months of the date that it was signed, as required.

On motion, the Petitioner notes the "intransigent internal protocols" put in place by [redacted] PD, highlighting that the strict refusal to recertify expired petitions is at odds with the positions of other law enforcement

agencies in the [REDACTED] area. The Petitioner further notes that [REDACTED]PD's refusal is at odds with the statutory intent behind the creation of the U visa program. The Petitioner argues that protocols such as those [REDACTED]PD has put in place result in the disparate treatment of noncitizen victims of crimes and an inconsistent ability to obtain Supplement B certifications dependent on the crime victim's location. In addition, the Petitioner cites USCIS's delay of five years from the time of filing the U petition to issuance of the RFE as a factor that further contributed to the inability to obtain the updated Supplement B. Finally, the Petitioner contends that the denial of the U petition is procedural, not substantive, and that this denial was made in contravention of the federal regulations and renders the U visa program functionally useless to crime victims.

The regulations describe the initial evidence requirements for a U petition, stating that the Supplement B must be "signed by a certifying official within the six months immediately preceding the filing of [the U petition]." 8 C.F.R. § 214.14(c)(2)(i). The regulation clearly 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. *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."). Furthermore, USCIS instructs law enforcement officials that the Supplement B "will be valid for six months from the date of signature" and that an individual failing to file within six months "will need to obtain a new Supplement B from the certifying agency." USCIS, *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 May 9, 2016, more than six months had passed since the signing of the Supplement B on August 31, 2015.

The Petitioner has raised various concerns regarding the law enforcement certification process and the impact it has on noncitizen victims of crimes. However, the Petitioner does not contest that the Supplement B was submitted outside the six-month period allowed by regulation. We are sympathetic to the Petitioner's situation, and we acknowledge the frustration incurred by the inability to obtain an updated Supplement B. However, we have no authority to waive the initial evidence requirements laid out by the regulations.

Consequently, while we acknowledge the unfortunate events that the Petitioner experienced as the victim of an aggravated assault, the Petitioner has not complied with 8 C.F.R. § 214.14(c)(2)(i) by providing a timely-certified Supplement B and is therefore ineligible for U-1 classification. As a result, we must dismiss the motion.

**ORDER:** The motion to reconsider is dismissed.