



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

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

In Re: 26553963

Date: MAY 24, 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), from a certifying official. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Applicant 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). A certifying official is defined as “[t]he head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying

agency to issue U nonimmigrant status certifications on behalf of that agency” or a “Federal, State, or local judge.” 8 C.F.R. § 214.14(a)(3).

II. ANALYSIS

The Petitioner, a native and citizen of Honduras, filed his U petition in May 2016. With his U petition, the Petitioner submitted a Supplement B certified in November 2015 by a detective in the [] County Sheriff’s Office, located in [] North Carolina. According to Parts 3.2 and 3.3 of the Supplement B, the date of the criminal act was July 4, 2015, and the criminal activity investigated or prosecuted was “N.C.G.S. 14-32.4 Assault inflicting serious injury; N.C.G.S. 14-87 Robbery with firearm.” In May 2021, the Director issued a request for evidence (RFE) stating, in relevant part, that the individual who signed the Supplement B was not a certifying official. The Director requested additional evidence to show that the individual who signed the Supplement B is the head of the certifying agency or a person in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of the agency, or is a Federal, State, or local judge. The Director further notified the Petitioner that in lieu of this information, he may provide a newly executed Supplement B signed by a certifying official.

In response to the RFE, the Petitioner described efforts by his former counsel to obtain the signed Supplement B and provided additional evidence, to include affidavits from a retired lieutenant at the [] County Sheriff’s Office, the Petitioner’s former counsel who requested and obtained the signed Supplement B documents, and his current counsel who discussed attempts to contact the Sheriff’s Office; documents sent to the Sheriff’s Office; and an article discussing a civil rights lawsuit filed against the Sheriff’s Office. The Petitioner asserted that the submitted evidence showed the detective who signed the Supplement B was authorized to sign the certification.

The Director reviewed the Petitioner’s RFE response and denied the U petition, explaining the evidence failed to establish the Supplement B was signed by a certifying official and therefore the record did not contain a properly executed Supplement B, as required by 8 C.F.R. § 214.14(c)(2)(i). The Director explained that Sherriff T-J-¹ was the head of the certifying agency, [] County Sheriff’s Office, when the Supplement B was signed. Sherriff T-J- did not sign the Supplement B and the record did not contain any documents that showed he specifically designated anyone to act as a certifying official on behalf of the Sheriff’s Office. Therefore, the submitted evidence did not establish that the person who signed the Supplement B, Detective M-W-, was a person in a supervisory role who was specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications (Supplement B) on behalf of the agency.

On appeal, the Petitioner asserts the Director erred by requiring a letter from the [] County Sheriff’s Office confirming the individual was authorized to sign the Supplement B. He argues that the language of the Supplement B is sufficient to meet regulatory requirements because the signer, in this case Detective M-W-, states in the certification that he is authorized to sign the form and by signing, he certifies that the information provided in the certification is true and accurate under penalty of perjury. The Petitioner claims the Director erroneously concluded that he did not meet his burden of proof to confirm the Supplement B was signed by an authorized signer. The Petitioner states that

¹ Initials are used to protect the privacy of individuals.

he may submit any credible evidence relating to the U petition for consideration per 8 C.F.R. § 214.14(c)(4) and as the Director did not find that the submitted evidence lacked credibility, the evidence should have been sufficient to meet eligibility requirements.

The Petitioner asserts that the evidence confirms his former counsel initially requested the certification to be signed by the now retired Lieutenant R-W-, who had previously been the authorized signer; the former counsel then spoke with Detective M-W- and confirmed he could not sign the Supplement B unless he was authorized; after this conversation, Detective M-W- requested that the Supplement B be revised to list him as the authorized signer; and the former counsel had no reason to believe Detective M-W- was not an authorized signer. The Petitioner notes that when the RFE was issued, six years had passed since the Supplement B was signed in 2015 and the Petitioner could not contact Detective M-W- because he no longer worked at the [REDACTED] County Sheriff's Office. Instead, the Petitioner submitted an affidavit from R-W-, who was Detective M-W-'s supervisor in 2015, confirming that at the time the certification was signed, it was office policy for the investigating detective to sign the Supplement B.

It is the Petitioner's burden to establish eligibility for the benefit sought by a preponderance of the evidence. 8 C.F.R. § 214.14(a)(3) provides that a certifying official is defined as "[t]he head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency" or a "Federal, State, or local judge." Here, the submitted documents do not demonstrate by a preponderance of the evidence that the person who signed the Supplement B, Detective M-W-, was a person in a supervisory role who was specifically designated by the head of the certifying agency to issue the Supplement B on behalf of that agency. On appeal and in response to the Director's RFE, the Petitioner asserts that R-W- confirmed in his affidavit that since the Petitioner's Supplement B was signed in 2015, he believed Detective M-W-, as the detective investigating the case, was authorized to review and sign the certification. However, R-W- does not reference Detective M-W- in his affidavit and instead states that when he received Supplement B requests, he would forward them to the detectives who were handling the cases and if he received a Supplement B request in 2015, he would have sent it to the detective who was working the case where he or she could review it and sign it. Further, the Director notified the Petitioner in the RFE that he may provide a newly executed Supplement B signed by a certifying official in lieu of submitting information to show that the individual who signed the Supplement B was an authorized signer. The record does not indicate that the Petitioner obtained a newly executed Supplement B.

In the absence of a properly executed Supplement B, as required by 8 C.F.R. § 214.14(c)(2)(i), the Petitioner has not satisfied initial evidence requirements, and we lack the authority to waive the requirements of 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). 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.

ORDER: The appeal is dismissed.