



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

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

In Re: 10319151

Date: AUG. 11, 2020

Motion on Administrative Appeals Office Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks “U-1” nonimmigrant classification under 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 Nebraska Service Center denied the Form I-918, Petition for U Nonimmigrant Status (U petition), and we dismissed the Petitioner’s subsequent appeal. The matter is now before us on a motion to reconsider. 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 USCIS policy based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). The burden of proof is on the petitioner to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

In our prior decision, incorporated here by reference, we determined that the Petitioner had not established her eligibility for U-1 status because she had not satisfied initial evidence requirements. Specifically, we concluded that the Director correctly determined that both the July 2014 Form I-918, Supplement B (Supplement B) initially provided with the U petition, as well as the July 2014 Supplement B provided in response to the Director’s request for evidence (RFE), were photocopies that lacked the required original signature of the certifying official. We additionally determined that the Petitioner had not established that the November 2018 Supplement B submitted on appeal was signed within six months of the date of filing of the U petition, or that the person who signed it was a certifying official.

On motion, the Petitioner asserts that the regulatory provision at 8 C.F.R. § 214.14(c)(2)(i) requiring that a properly executed Supplement B be signed within the six-month period prior to filing is a non-jurisdictional claim processing rule that is subject to equitable tolling. However, the case law cited to by the Petitioner, which involves equitable tolling of a filing deadline, is inapplicable to the present matter, as the requirement that a Supplement B be properly signed within the six-month period prior to filing the U petition is an evidentiary requirement. *See* 8 C.F.R. § 214.14(c)(i) (describing

initial evidence that must be submitted with the filing of a U petition, including a Supplement B signed “within the six months immediately preceding the filing of [the U petition].”).

Relatedly, the Petitioner asserts that U.S. Citizenship and Immigration Services (USCIS) should permit the submission of the November 2018 Supplement B because USCIS erred in determining that the July 2014 Supplement B did not contain an original signature, and USCIS should be given the opportunity to “correct its own errors before judicial intervention.”¹ However, as a review of the record indicates that both July 2014 Supplements B provided below are photocopies that lack an original signature, this claim is unpersuasive.

We additionally determined that the Petitioner had not demonstrated that A-V-,² the sergeant with the [redacted] Police Department (certifying agency) who signed the November 2018 Supplement B, holds a “supervisory role” and has been “specifically designated by the head of the certifying agency to issue [Supplements B] on behalf of that agency,” as required by 8 C.F.R. § 214.14(c)(2)(i). The Petitioner has not addressed this issue on motion.

III. CONCLUSION

The Petitioner has not established legal error in our prior determination that she had not provided a Supplement B that satisfied initial evidence requirements. Consequently, the Petitioner has not demonstrated her eligibility for U-1 status.

ORDER: The motion to reconsider is dismissed.

¹ Petitioner’s counsel, in brief, cites to *Sagermark v. INS*, 767 F.2d 645, 648 (9th Cir. 1985), in support of this claim.

² We use initials to protect the privacy of individuals.