



U.S. Citizenship  
and Immigration  
Services

Non-Precedent Decision of the  
Administrative Appeals Office

In Re: 8723361

Date: SEPT. 2, 2020

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 Vermont Service Center denied the Form I-918, Petition for U Nonimmigrant Status (U petition). We dismissed the Petitioner's appeal.

This matter is now before us on a motion to reconsider. The Applicant submits a brief asserting that he has demonstrated his eligibility for U-1 nonimmigrant classification. Upon review, we will dismiss the motion to reconsider.

## 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 demonstrates eligibility for the requested immigration benefit.

U.S. Citizenship and Immigration Services (USCIS) has sole jurisdiction over U petitions and the petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.14(c)(4); Matter of Chawathe, 25 &N Dec. 369, 375 AAO 2010). 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, signed by a "certifying official within the six months immediately preceding the filing of the Form I-918." 8 C.F.R. § 214.14(c)(2)(i).

## II. ANALYSIS

On appeal, we concluded the Petitioner did not establish that his Supplement B was signed by a certifying official within the six months immediately preceding the filing of his U petition. While the Petitioner's U petition was filed on January 12, 2015, his accompanying Supplement B was signed on July 10, 2014. On appeal, the Petitioner asserted that his Supplement B was signed within the six

months preceding his U petition filing. Specifically, the Petitioner contended that in accordance with 8 C.F.R. § 1.2, as the end of those six months, January 10, 2015, fell on a Saturday, the six-month deadline effectively expanded to the next available business day, Monday, January 12, 2015. However, we found the regulation at 8 C.F.R. § 1.2 to be inapplicable to the Supplement B requirements listed at 8 C.F.R. § 214.14(c)(2)(i), as the former relates to determining whether certain actions taken before USCIS fall within a specific timeframe, and the latter refers to initial evidentiary requirements for a U petition.

On motion, the Petitioner asserts that 8 C.F.R. § 1.2's definition of "day" explicitly relates to any action provided in Chapter I of title 8 of the Code of Federal Regulations that refer to meeting filing deadlines, including 8 C.F.R. § 214.14(c)(2)(i). The Petitioner contends that since 8 C.F.R. § 214.14(c)(2)(i) states that the Supplement B must be signed by a certifying official within the six months immediately preceding the filing of the U petition but does not provide specific details relating to the deadline falling on a Saturday, Sunday, or holiday, we should rely upon the "day" definition found at 8 C.F.R. § 1.2.

8 C.F.R. § 1.2 provides, in relevant part, that:

Day, when computing the period of time for taking any action provided in this chapter I including the taking of an appeal, shall include Saturdays, Sundays, and legal holidays, except that when the last day of the period computed falls on a Saturday, Sunday, or a legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, or a legal holiday.

And, 8 C.F.R. § 214.14(c)(2)(i) provides that:

2) Initial evidence. Form I-918 must include the following initial evidence:

(i) Form I-918, Supplement B, "U Nonimmigrant Status Certification," signed by a certifying official within the six months immediately preceding the filing of Form I-918. The certification must state that: the person signing the certificate is the 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 is a Federal, State, or local judge; the agency is a Federal, State, or local law enforcement agency, or prosecutor, judge or other authority, that has responsibility for the detection, investigation, prosecution, conviction, or sentencing of qualifying criminal activity; the applicant has been a victim of qualifying criminal activity that the certifying official's agency is investigating or prosecuting; the petitioner possesses information concerning the qualifying criminal activity of which he or she has been a victim; the petitioner has been, is being, or is likely to be helpful to an investigation or prosecution of that qualifying criminal activity; and the qualifying criminal activity violated U.S. law, or occurred in the United States, its territories, its possessions, Indian country, or at military installations abroad.

As stated, 8 C.F.R. § 1.2 specifies that the definition of “day” applies “when computing the period of time for taking any action provided in this Chapter I including the taking of an appeal.” However, 8 C.F.R. § 214.14(c)(2)(i) refers only to the initial evidence that must be included in filing a U petition. And, in outlining the required initial evidence, the regulation specifies the requirements for the Supplement B, including stating that the Supplement B must have been signed by a certifying official six months preceding the filing of the U petition. As stated on appeal, the six-month requirement was established to “seek a balance between encouraging the filing of petitions and preventing the submission of stale certifications.” See *New Classification for Victims of Criminal Activity; Eligibility for “U” Nonimmigrant Status*, 72 Fed. Reg. 53014, 53023 (Sept. 17, 2007). As the specified six-month time period relates to evidentiary requirements for U eligibility, and not the timely filing of a petition or “taking any action,” 8 C.F.R. § 1.2 does not apply.

The Petitioner reiterates on appeal that the crime perpetrated against the Petitioner occurred within the jurisdiction of a police department whose policy dictates that a new Supplement B will not be issued for a failure to comply with the time requirement, through no fault of the department. We acknowledge this unfortunate circumstance and the criminal victimization suffered by the Petitioner, but as stated on appeal, we lack the authority to waive the statute requirements and implementing regulations. See *United States v. Nixon*, 418 U.S. 683, 695-96 (1974).

### III. CONCLUSION

The Petitioner has not overcome on motion our determination that he has not established that he provided a Supplement B signed by a certifying official within the six months immediately preceding the filing of his U petition, so has not demonstrated his eligibility for U-1 classification.

ORDER: The motion to reconsider is dismissed.