



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

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

In Re: 7305096

Date: AUG. 06, 2020

Motion on Administrative Appeals Office Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks “U-1” nonimmigrant classification under sections 101(a)(15)(U) and 214(p), 8 U.S.C. §§ 1101(a)(15)(U) and 1184(p), of the Immigration and Nationality Act (the Act). The Director of the Vermont Service Center denied the Petitioner’s Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that the record did not include a properly executed Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B). We summarily dismissed her subsequent appeal. The Petitioner now files a motion to reconsider, arguing that we erred in the decision summarily dismissing her appeal and that she has established her eligibility. Upon review, we will dismiss the Petitioner’s motion.

**I. LAW**

In these proceedings, it is the petitioner’s burden to establish eligibility for the requested benefit 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 I&N Dec. 369, 375 (AAO 2010). 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; and have been helpful, are being helpful, or are likely to be helpful to law enforcement authorities investigating or prosecuting the qualifying criminal activity perpetrated against them. Section 101(a)(15)(U)(i) of the Act.

As required initial evidence, petitioners must submit a Supplement B from a law enforcement official certifying the petitioners’ 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). U.S. Citizenship and Immigration Services (USCIS) has sole jurisdiction over U petitions. 8 C.F.R. § 214.14(c)(4). Although petitioners may submit any relevant, credible evidence for the agency to consider, USCIS determines, in its sole discretion, the credibility of and weight given to all the evidence, including the Supplement B. Section 214(p)(4) of the Act; 8 C.F.R. § 214.14(c)(4).

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or USCIS policy. 8 C.F.R. § 103.5(a)(3). The motion to reconsider must also establish that the decision

was incorrect based on the evidence of record at the time of the initial decision. *Id.* We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit. Here, the Petitioner has not established that our prior decision was based on an error of law or policy, or was otherwise incorrect based on the record at the time of the decision.

## II. ANALYSIS

The Petitioner filed her U petition with USCIS in March 2014. She included with her submission a Supplement B, dated in October 2013, identifying the certifying official as the Lieutenant of Police at the [redacted] California, Police Department. In August 2017, the Director issued a request for evidence (RFE) noting that the Supplement B the Petitioner submitted was not properly executed because it did not contain an original signature from the certifying official. The Director provided the Petitioner the opportunity to submit a Supplement B containing an original signature from the certifying official. The Petitioner responded to the RFE with a letter from her former counsel, which stated that she would have submitted a Supplement B with the original signature but that she was not in possession of the original. After considering the Petitioner's response, the Director denied the U petition, concluding that the record did not contain a properly executed Supplement B. The Petitioner filed an appeal of that decision, which we summarily dismissed because it did not identify specifically any erroneous conclusion of law or statement of fact in the unfavorable decision.

The Petitioner now files a motion to reconsider our summary dismissal, arguing it was in error because she submitted with her appeal a newly executed Supplement B with an original signature and that she is eligible for the benefit sought. As asserted by the Petitioner, the record shows that she submitted with her appeal a newly executed Supplement B, signed and certified in February 2018, that contains the original signature of a certifying official. As the record indicates that the Petitioner timely provided additional evidence in support of her claim, we erred in summarily dismissing her appeal. Nevertheless, the Petitioner has not established her eligibility for U-1 status on motion.

As stated above, the Supplement B is required initial evidence that must be submitted with the U petition. Section 214(p) of the Act (stating a U petition "shall contain a certification from a Federal, State, or local law enforcement official . . ."); 8 C.F.R. §§ 103.2(b)(1) (providing that "[e]ach benefit request must be properly completed and filed with all initial evidence required by applicable regulations and other USCIS instructions") and 214.14(c)(2)(i) (reiterating that a U petition must include the Supplement B as initial evidence). The signature page of the Supplement B must contain the original signature of the certifying official, as explained in the form's instructions. *See* Instructions for Form I-918, Petition for U Nonimmigrant Status (Form I-918 Instructions), at 4 (Jan. 15, 2013 ed.) (stating that "the signature on the [Supplement B] must be original"); *see also* 8 C.F.R. § 103.2(a)(1) (providing that "[e]very form, benefit request, or other document must be submitted . . . and executed in accordance with the form instructions" and that a "form's instructions are . . . incorporated into the regulations requiring its submission"). The regulations further require that the certifying official sign the Supplement B "within the six months immediately preceding the filing of" the U petition. 8 C.F.R. § 214.14(c)(2)(i).

Here, as the Director determined, the Petitioner's Supplement B accompanying her U petition was not properly executed because it did not contain the original signature of the certifying official. Accordingly, the Petitioner did not submit requisite initial evidence with her U petition and the

deficiencies identified by the Director remain in the record. The February 2018 Supplement B submitted by the Petitioner on appeal was not signed by a certifying official within the six-month period preceding the filing of her U petition in March 2014, as required. Therefore, the Applicant has not established that our prior decision was based on an error of law or policy, or was otherwise incorrect based on the record at the time of the decision. While remaining sensitive to the hardship this may cause to the Petitioner, we lack the authority to waive the requirements of the statute, as implemented by 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).<sup>1</sup>

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

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<sup>1</sup> The denial of this petition is without prejudice to the Petitioner’s filing of a new U petition including a properly executed Supplement B.