U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 20564786

Date: MAR. 7, 2022

Appeal of Vermont 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 at 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 Vermont Service Center Director denied the Petitioner's Form I-918, Petition for U Nonimmigrant Status (U petition), for two primary bases: (1) the Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B) was not signed by a person who satisfied the definition of a certifying official within the regulation; and (2) the Petitioner did not establish he was a victim of qualifying criminal activity. The denial of the Petitioner's U petition is now before us on appeal. A petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. 8 C.F.R. § 214.14(c)(4); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter *de novo*. *See 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

The U-1 classification affords nonimmigrant status to victims of qualifying criminal activity who suffer substantial physical or mental abuse as a result of the crime. Section 101(a)(15)(U)(i) of the Act. To be eligible for U-1 nonimmigrant status, the petitioner must also possess information about the qualifying crime and be helpful to "a Federal, State, or local law enforcement official, to a Federal, State, or local prosecutor, to a Federal or State judge, to the Service, or to other Federal, State, or local authorities" in their investigation or prosecution of the crime. *Id.*

A U petition must be filed with a Supplement B certified by a "Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating criminal activity" and signed by a certifying official within six months immediately preceding the filing of the U petition. Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i). *See also* 8 C.F.R. § 214.14(a)(3)(i) (defining "certifying official," as relevant here, 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. . . ."). The Supplement B must certify that a petitioner: (1) was a victim of qualifying criminal activity that the certifying agency is investigating or prosecuting, (2) possesses information about the crime, and (3) "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).

II. ANALYSIS

The Petitioner filed their U petition in December of 2015 accompanied by a Supplement B certified by A-L-M-, who was listed as "Police Officer" of the [redacted] Police Department in [redacted] Ohio.[1] The Director issued a request for evidence (RFE), in part seeking evidence that A-L-M- was the head of the certifying agency or a person in a supervisory role that was specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of the agency. Alternatively, the Director requested a newly executed Supplement B signed by a qualifying certifying official.

In response to the RFE, the Petitioner's previous counsel indicated that they followed the directions that the police department provided. From previous counsel's statement, the appeal brief concludes that A-L-M- was acting in the "capacity as a certifying official [which could be] inferred from her conduct and from the [redacted] Police Department's conduct." In support of this position, the Petitioner provided a letter from his previous counsel and a printout from a public records website reflecting A-L-M- was a supervisor with the [redacted] Police Department. The Director concluded that response and evidence was insufficient to satisfy the regulation and denied the U petition, determining that the Petitioner could not establish his eligibility for U nonimmigrant status because the certifying official who signed the updated Supplement B was not qualified to do so. The Director also denied the U petition because the Petitioner did not establish that he was a victim of qualifying criminal activity.

On appeal, the Petitioner argues the Director erred in determining that the certifying official on the Supplement B form was not one who was "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." The Petitioner also contests the Director's determination that in Ohio, robbery is not substantially similar in its nature and elements to the qualifying crime of felonious assault.

Upon review of the record, the Petitioner has not met his burden to demonstrate that A-L-M- was authorized to certify the Supplement B as a certifying official. Even if previous counsel followed the police department's instructions as they claim, the Director notified the Petitioner that the Supplement B was not completed in accordance with the regulation and the Petitioner did not offer an adequate Supplement B form, nor did they provide documentation from the [redacted] Police Department establishing that A-L-M- was either "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." 8 C.F.R. § 214.14(c)(2)(i).

We also do not agree with the Petitioner's contention that A-L-M-'s "designation as a certifying official is inferred from her conduct and" that of the police department. As stated above, the Act at section 214(p)(1) requires the submission of a Supplement B. Relevant regulations reiterate that the U petition "must include [as] initial evidence" a Supplement B "signed by a certifying official."

[1] We use individual's initials throughout this decision to protect their identities.

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)(i). The Petitioner's contention that we should consider A-L-M- to meet this regulatory requirement simply as a result of her conduct and that of the police department does not satisfy her burden. *See Chawathe*, 25 I&N Dec. at 375.

The regulation at 8 C.F.R. § 103.2(b)(1) requires a filing party to establish that they are "eligible for the requested benefit at the time of filing" and that "[e]ach benefit request must be properly completed and filed with all initial evidence required by applicable regulations and other [U.S. Citizenship and Immigration Services] instructions." Where the regulations—and the Supplement B form's instructions—require specific, objective evidence such as a Supplement B signed by an appropriate certifying official, evidence of such compliance would demonstrate that the official signing the form satisfies the definition of a certifying official at 8 C.F.R. § 214.14(a)(3)(i). Here, the Petitioner has not offered evidence that satisfies the regulatory requirements for a Supplement B form. The record as a whole, including the arguments and material submitted on appeal, does not establish that the Supplement B was properly executed by a certifying official as required by 8 C.F.R. § 214.14(c)(2)(i). The Supplement B provides that K-J- serves as the Chief of Police and head of the [redacted] Police Department, and the record does not contain any evidence to show that K-J- specifically designated A-L-M- to issue a Supplement B on the Department's behalf.

As a result, the deficiencies the Director identified remain in the record on appeal and the Petitioner has not overcome this ground for denial of his U petition. Because the identified basis for the U petition's denial is dispositive of this appeal, we decline to reach and hereby reserve the Petitioner's remaining appellate arguments. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of M-F-O-*, 28 I&N Dec. 408, 417 n.14 (BIA 2021) (declining to reach alternative issues on appeal where a filing party is otherwise ineligible). Accordingly, the Petitioner has failed to establish his eligibility for U nonimmigrant classification under section 101(a)(15)(U)(i) of the Act.

ORDER: The appeal is dismissed.