



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

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

In Re: 21302098

Date: APR. 8, 2022

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 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 Nebraska Service Center denied the Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that the Petitioner had not established that she suffered substantial physical or mental abuse as a result of qualifying criminal activity. On appeal, the Petitioner submits a brief and reasserts eligibility. The Administrative Appeals Office reviews 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, the petitioner must establish, *inter alia*, that they have suffered substantial physical or mental abuse as a result of having been the victim of qualifying criminal activity. Section 101(a)(15)(U)(i) of the Act; 8 C.F.R. § 214.14(b)(1). The regulations provide that whether abuse is substantial is based on a number of factors, including but not limited to:

The nature of the injury inflicted or suffered; the severity of the perpetrator's conduct; the severity of the harm suffered; the duration of the infliction of the harm; and the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim, including aggravation of pre-existing conditions. No single factor is a prerequisite to establish that the abuse suffered was substantial. Also, the existence of one or more of the factors automatically does not create a presumption that the abuse suffered was substantial. A series of acts taken together may be considered to constitute substantial physical or mental abuse even where no single act alone rises to that level[.]

8 C.F.R. § 214.14(b)(1).

Although petitioners may submit any relevant, credible evidence for the agency to consider, U.S. Citizenship and Immigration Services determines, in its sole discretion, the credibility of and weight given to such evidence. Section 214(p)(4) of the Act; 8 C.F.R. § 214.14(c)(4).

II. ANALYSIS

A. Relevant Facts and Procedural History

The Petitioner filed her U petition in August 2016 with a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), signed and certified by a deputy police chief in the [redacted] Police Department in [redacted] New Jersey (certifying official). The certifying official checked a box indicating that the Petitioner was the victim of criminal activity involving or similar to “Domestic Violence.” In Part 3.3 of the Supplement B, which requests the statutory citation(s) for the criminal activity being investigated or prosecuted, the certifying official cited to New Jersey Statutes Annotated section 2C:12-1(a) (simple assault). When asked to provide a description of the criminal activity being investigated or prosecuted, the certifying official stated that the perpetrator “committed an act of domestic violence upon the victim [the Petitioner] (simple assault).” When asked to provide a description of any known or documented injury to the Petitioner, the certifying official stated “[The Petitioner] sustained an injury to one of her fingers (broken nail). She was treated by E.M.S.”

With the U petition, the Petitioner also submitted a statement describing the incident and a police report. The police report provides that the perpetrator began arguing with the victim and he “became irate and pushed her, breaking a nail, which drew blood and was treated by E.M.S. on scene.” The police report further provides that the perpetrator “threatened to take their 10-month-old child away from her and that he swung a beer bottle at her in an attempt to strike her on the shoulder.” In her personal statement, the Petitioner reiterated the facts as outlined in the police report and Supplement B and stated that she “was scared of [the perpetrator]” and “feared that he would take [her] baby away from [her].”

The Director denied the U petition, concluding that the Petitioner did not establish that she suffered substantial physical or mental abuse as a result of having been the victim of qualifying criminal activity. On appeal, the Petitioner contends that the Director’s decision overlooked the fact that the documentary evidence establishes that she is a victim of domestic violence and “suffered bruises, an injured hand, a broken fingernail, and required emergency treatment.”

B. The Petitioner Did Not Suffer Substantial Physical or Mental Abuse as a Result of the Qualifying Criminal Activity

The regulation at 8 C.F.R. § 214.14(a)(8) defines physical or mental abuse as “injury or harm to the victim’s physical person, or harm to or impairment of the emotional or psychological soundness of the victim.” As stated above, a petitioner must demonstrate that such injury, harm, or impairment is substantial, and this determination is based on consideration of a number of non-exhaustive factors. See 8 C.F.R. § 214.14(b)(1) (outlining relevant factors).

While we remain sensitive to the Petitioner’s victimization and do not question that law enforcement detected, investigated, or prosecuted, and she was the victim of, the qualifying crime of domestic

violence, the record does not establish, by a preponderance of the evidence, that she suffered substantial physical or mental abuse as a result of the same.

The consensus within the record documenting the Petitioner's physical injuries consists of a broken nail, which drew blood. Although the Petitioner did experience physical injuries as a result of the event, those ailments were treated on the night of the event. The injuries were of short duration and did not result in any permanent or serious harm to her physical appearance, or her physical functioning and mobility. With regards to any mental abuse suffered by the Petitioner, the record does not include any evidence that she sought or received mental health treatment as a result of the incident and her statement does not otherwise describe or provide insight into the psychological harm she suffered beyond her articulated fear of the perpetrator and that he would take her child away from her. This statement on its own, while relevant, does not establish that she suffered any permanent or serious harm to her mental soundness. The record does not otherwise show how the incident impacted her day-to-day routine or her ability to function in her day-to-day life. The Petitioner has not met her burden to demonstrate, by a preponderance of the evidence, that the abuse she suffered was substantial, as contemplated by section 101(a)(15)(U)(i) of the Act and the factors outlined at 8 C.F.R. § 214.14(b)(1). Accordingly, she is not eligible for U nonimmigrant status.

ORDER: The appeal is dismissed.