



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

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

In Re: 21518596

Date: APR. 20, 2022

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 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), because the Petitioner had not demonstrated that he was a victim of qualifying criminal activity, as required. The Petitioner filed an appeal of the Director’s decision, which we dismissed. Now, the Petitioner files a motion to reconsider. Upon review, we will dismiss the motion.

I. LAW

Section 101(a)(15)(U)(i) of the Act provides U-1 nonimmigrant classification to victims of qualifying crimes who suffer substantial physical or mental abuse as a result of the offense. These victims must also possess information regarding the qualifying crime and be helpful to law enforcement officials in their investigation or prosecution of it. *Id.*

A “victim of qualifying criminal activity” is defined as an individual who has “suffered direct and proximate harm as a result of the commission of qualifying criminal activity.” 8 C.F.R. § 214.14(a)(14). “Qualifying criminal activity” is “that involving one or more of” the 28 types of crimes listed at section 101(a)(15)(U)(iii) of the Act or “any similar activity in violation of Federal, State, or local criminal law.” Section 101(a)(15)(U)(iii) of the Act; 8 C.F.R. § 214.14(a)(9). The term “‘any similar activity’ refers to criminal offenses in which the nature and elements of the offenses are substantially similar to the statutorily enumerated list of criminal activities” at section 101(a)(15)(U)(iii) of the Act. 8 C.F.R. § 214.14(a)(9).

U.S. Citizenship and Immigration Services (USCIS) has sole jurisdiction over U petitions, and petitioners bear 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)(1),(4); *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). As a part of meeting this burden, petitioners must submit a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), from a law enforcement official

certifying their helpfulness in the investigation or prosecution of the qualifying criminal activity. Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i). Petitioners must also provide a statement describing the facts of their victimization as well as any additional evidence they want USCIS to consider to establish that they are victims of qualifying criminal activity and have otherwise satisfied the remaining eligibility criteria. 8 C.F.R. § 214.14(c)(2)(ii). Although petitioners may submit any evidence for the agency to consider, USCIS determines, in its sole discretion, the credibility of and weight given to all of 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 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 the above requirements and demonstrates eligibility for the requested immigration benefit.

II. ANALYSIS

The Petitioner filed his U petition with a Supplement B, in which the certifying official checked the box at part 3.1 indicating that the Petitioner is the victim of criminal activity involving or similar to “Other—Burglary x2/G. Larceny.” Regarding the statutory citations for the criminal activity being investigated or prosecuted, the certifying agency listed sections 16-11-0312 (second degree burglary) and 16-13-0030(b) (grand larceny) of the South Carolina Code of Laws, respectively. The narrative portion of the Supplement B indicated that “[the Petitioner] reported on two separate occasions, person(s) unknown forcibly entered his residence, but nothing was stolen. On the second occasion the subject forcibly entered his vehicle which was located at his residence and stole approximately \$6,200.00 [*sic*] personal property. A suspect was unable to be identified.” The Petitioner also submitted the corresponding incident reports from the certifying agency which generally confirmed the description of the incident in the Supplement B. The Director denied the U petition, determining that the Petitioner had not demonstrated that he was a victim of qualifying criminal activity, as required.

In our decision dismissing the Petitioner’s appeal, we determined that he had not met his burden of establishing that law enforcement detected, investigated, or prosecuted qualifying criminal activity, specifically the crime of stalking, as perpetrated against the Petitioner, as he claimed. We noted that neither the Supplement B nor the police incident reports in the record made any reference to stalking as having been detected, but rather indicated that the crimes investigated were breaking into a motor vehicle, second degree burglary, and larceny, which are not qualifying crimes.

On motion, the Petitioner submits only a duplicate copy of the same brief he previously submitted with the appeal. As stated above, motions 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). Here, he has not satisfied these requirements, as he has not submitted any arguments on motion that our prior decision was incorrect based on the record at the time and has not otherwise identified any error in our prior decision finding that he had not demonstrated that he is the victim of qualifying criminal activity. Therefore, the motion to reconsider is dismissed and the U petition remains denied.

ORDER: The motion to reconsider is dismissed.