



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

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

In Re: 21606139

Date: APR. 20, 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). The matter is now before us on appeal. On appeal, the Petitioner submits a brief and asserts her eligibility for U nonimmigrant status. 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, the matter will be remanded to the Director for further proceedings consistent with our decision here.

**I. LAW**

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. Section 101(a)(15)(U)(i) of the Act. The helpfulness requirement includes demonstrating that, since initiating cooperation, the petitioner “has not refused or failed to provide information and assistance reasonably requested.” 8 C.F.R. § 214.14(b)(3).

The burden of proof is on a petitioner 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 I&N Dec. 369, 375 (AAO 2010). To meet this burden, petitioners must submit, as required initial evidence, a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), from a law enforcement official certifying the petitioners’ helpfulness in the investigation or prosecution of the qualifying criminal activity perpetrated against them.<sup>1</sup> 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)(1). Although petitioners may submit any relevant, credible evidence

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<sup>1</sup> The Supplement B also provides factual information concerning the criminal activity, such as the specific violation of law that was investigated or prosecuted, and gives the certifying agency the opportunity to describe the crime, the victim’s helpfulness, and the victim’s injuries.

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).

## II. ANALYSIS

### A. Relevant Facts and Procedural History

The Petitioner filed her U petition in June 2016, accompanied by a Supplement B that was signed and certified by the Chief of Police of the [redacted] Police Department in [redacted] Wisconsin (certifying official) in January 2016, based on criminal activity committed against the Petitioner's minor daughter in [redacted] 2009. In part 3.1 of the Supplement B, the certifying official marked boxes indicating that the Petitioner was the victim of criminal activity involving or similar to "Abusive Sexual Contact" and "Sexual Assault." At part 3.3, the certifying official cited to section 948.02(2) of the Wisconsin Statutes Annotated (Wis. Stat. Ann.), relating to the offense second degree sexual assault, as the specific statutory citation for the offense investigated or prosecuted as perpetrated against the Petitioner's daughter. According to the description of the incident in the Supplement B, the Petitioner's daughter was sexually assaulted by the child's cousin, who touched her private parts and pushed her onto the bed. At part 4, the certifying official marked boxes confirming that the Petitioner "[p]ossesses information about the criminal activity listed in Part 3," "has been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity," has "been requested to provide further assistance in the investigation and/or prosecution," and has not "unreasonably refused to provide assistance in a criminal investigation and/or prosecution." In further addressing the Petitioner's helpfulness, the certifying official stated that she "cooperated in the investigation of the crime[,] . . . provided contact information for potential witnesses and facilitated access to her daughter for interviews," and "agreed to cooperate going forward and never refuse [*sic*] to cooperate in any matter during the investigation" although she expressed concern about the effect of the investigation on family relationships.

The police report accompanying the Supplement B contained a description of the criminal activity that was consistent with that in the Supplement B. The police report narrative indicated that the county human services agency, where the Petitioner and her spouse had sought counselling for their daughter, reported the criminal activity. Among other details about the investigation, the report described the Petitioner and her spouse being jointly interviewed by a detective about the criminal activity and indicated that they initially did not report the crime for a number of reasons, including out of fear that their daughter's reputation would be at stake and avoid harm to her. The report reflected that the Petitioner cooperated and answered questions posed during the interview, provided information on the witnesses to the crime, expressed concerned that the perpetrator would repeat the criminal activity, and appeared to want charges filed against the perpetrator. According to the report, following discussion with an assistant district attorney and a deputy district attorney who both indicated that their office would decline prosecution, the detective did not refer the case to the district attorney's office.

In finding that the Petitioner did not establish her helpfulness in the investigation or prosecution of qualifying criminal activity and denying the petition, the Director noted that the Petitioner did not report the incident to the police, and rather a human services agency did so over a year after the incident. Further, the Director, noting that law enforcement did not refer the case for prosecution after

being advised by the prosecutor that the case would likely be declined, concluded that the investigation and/or prosecution of the criminal activity could not proceed due to its untimely reporting.<sup>2</sup>

#### B. Helpfulness to Authorities Investigating or Prosecuting the Qualifying Criminal Activity

On appeal, the Petitioner asserts that the Director erred in determining that she had not established the helpfulness requirement under section 101(a)(15)(U)(i)(III) of the Act. She argues that she has shown that she was helpful beginning when she first came into contact with the police about the criminal activity and has not failed to cooperate with the police since that time. The Petitioner further maintains that the record did not support the Director's finding that her untimely reporting was the reason the criminal activity was not prosecuted and notes that the regulations do not require that a crime be reported immediately.

In the present case, the Petitioner has sufficiently established her helpfulness in the investigation and prosecution of qualified criminal activity as required by section 101(a)(15)(U)(i)(III) of the Act and by regulation at 8 C.F.R. § 214.14(b)(3). As the Director notes, the Petitioner was not the one who initially reported the criminal activity perpetrated against her daughter, and the criminal activity itself was not reported until over a year after the incident and was ultimately not referred for prosecution. However, this is not sufficient basis to rebut or overcome the evidence of the Petitioner's helpfulness in the record. The regulations require the Petitioner to show that "since the initiation of cooperation, [s]he has not refused or failed to provide information and assistance reasonably requested." 8 C.F.R. § 214.14(b)(3); *see also* Interim Rule, *New Classification for Victims of Criminal Activity: Eligibility for "U" Nonimmigrant Status*, 72 Fed. Reg. 53014, 53019 (Sept. 17, 2007) (indicating, within the preamble to the U nonimmigrant rule, that "USCIS is excluding from eligibility those . . . victims who, after initiating cooperation, refuse to provide continuing assistance when reasonably requested" and that the statute imposes an "ongoing responsibility . . . to provide assistance, assuming there is an ongoing need for the applicant's assistance."). Here, nothing in the record indicates that the Petitioner refused or failed to provide information or assistance reasonably requested by the [ ] Police Department at any point after the criminal activity was reported and after she commenced her cooperation in its investigation of the qualifying criminal activity. To the contrary, the certifying official specified on the Supplement B that the Petitioner was helpful in the investigation and prosecution of the criminal activity perpetrated against her daughter and did not unreasonably refuse to provide assistance in the investigation or prosecution. The certifying official further affirmed that the Petitioner had cooperated with the investigation, "provided contact information for potential witnesses and facilitated access to her daughter for interviews," and never refused to cooperate in the investigation. There is no indication in the police report and other evidence to support the Director's determination that the untimely reporting of the criminal activity or any unwillingness on the Petitioner's part to assist in the investigation and prosecution of the crime was the reason that the case was not referred for prosecution. Based on the foregoing, the preponderance of the evidence demonstrates that the Petitioner has been helpful, is being helpful, or is likely to be helpful, as required by statute and regulation.

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<sup>2</sup> The Director also indicated that "regulation does state that law enforcement must have the ability to proceed with an investigation and/or prosecution based on the victim's helpfulness." However, the Director did not identify the regulation being referenced, and our review of the regulations regarding the helpfulness requirement does not disclose any such requirement.

### III. CONCLUSION

The Petitioner has overcome the sole ground for the Director's denial of her U petition. Therefore, we will remand the matter to the Director for consideration of whether the Petitioner has met the remaining eligibility requirements for U nonimmigrant classification under section 101(a)(15)(U)(i) of the Act.

**ORDER:** The decision of the Director is withdrawn. The matter is remanded to the Director for the entry of new decision consistent with the foregoing analysis.