



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

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

In Re: 21798920

Date: APR. 28, 2022

Appeal of Nebraska Service Center 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) 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 evidence previously in the record, new evidence, and a brief arguing that she has established eligibility for U-1 nonimmigrant classification. 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, a petitioner must show that they, *inter alia*, 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 burden of proof is on the 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, 376 (AAO 2010). 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 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 June 2016 with two Forms I-918 Supplement B, U Nonimmigrant Status Certification (Supplements B). The first Supplement B is based on an incident which occurred in [REDACTED] 2012 and is signed and certified by the Major of the Community Services Bureau with the [REDACTED] Police Department in [REDACTED] North Carolina (certifying official). The certifying official checked a box for “Other: Robbery/Aggravated Assault” and cited to sections 14-87 (Robbery) and 14-39 (Kidnapping) of the North Carolina General Statutes Annotated (N.C. Gen. Stat.

Ann.) as the specific statutory citations investigated or prosecuted as perpetrated against the Petitioner. When asked to provide a description of the criminal activity being investigated or prosecuted, the certifying official indicated that the Petitioner was at her spouse's business when three suspects approached her spouse requesting assistance with their vehicle. After her spouse assisted them, one of the suspects removed a shotgun and forced him inside the business. At that time, two additional suspects appeared and brandished a handgun. The suspects demanded jewelry and money from all of the victims inside the business including the Petitioner who was forced to give one of the suspects her cell phone and jewelry. When asked to provide a description of any known or documented injury to the Petitioner, the certifying official indicated that the Petitioner "did not report any injuries." When asked to describe the Petitioner's helpfulness, the certifying official indicated that the Petitioner "advised that she kept her head down during [the incident] and could not provide a description as she did not see the suspect." However, she later provided a written statement to the officer at the scene.

The second Supplement B is based on an incident which occurred in [] 2013 and is signed and certified by the same certifying official who signed the first Supplement B. The certifying official checked a box for "Other: Robbery/Aggravated Assault" and cited to sections 14-87 and 14-33 (Aggravated Assault) of the N.C. Gen. Stat Ann. as the specific statutory citations investigated or prosecuted as perpetrated against the Petitioner. When asked to provide a description of the criminal activity being investigated or prosecuted, the certifying official indicated that the Petitioner "was standing at her vehicle . . . when the suspect approached her from behind and stated '[g]ive me the money.' When the Petitioner told the suspect that she did not have any money, he grabbed her purse and stated '[d]on't call the police or I will be back for you.' He then fled the scene. The Petitioner's purse was later found behind her house with money missing from inside it." When asked to provide a description of any known or documented injury to the Petitioner, the certifying official indicated that the Petitioner "sustained a two (2) inch laceration to her upper left arm." However, the certifying official indicated that the Petitioner did not see what cut her arm and "[t]here was no indication that a weapon was observed by [her] during the incident." When asked to describe the Petitioner's helpfulness, the certifying official indicated that the Petitioner provided a written statement, suspect description, and buccal DNA swab related to the investigation of the case.

The Director issued a notice of intent to deny (NOID) seeking additional evidence that the Petitioner suffered substantial physical or mental abuse as a result of qualifying criminal activity. In response, the Petitioner submitted an updated affidavit, a letter from her family practice doctor at [] Health, a photocopy of pill bottles of sertraline and venlafaxine, a receipt from Walmart Pharmacy for sertraline, articles on sertraline and venlafaxine from the Mayo Clinic, and letters of support from friends and family. After considering the evidence in the record, the Director denied the U petition, concluding that the Petitioner had not established that she suffered substantial physical or mental abuse as a result of qualifying criminal activity. The Director stressed that both incidents were of limited duration, the Petitioner only suffered a small, two-inch laceration that did not require medical care after the [] 2013 incident, and that she underwent one mental health evaluation more than three years after the last incident in [] 2013. The Director acknowledged the letter from the Petitioner's family practice doctor indicating prescription medications for anxiety and depression. However, she noted that the letter did not detail the extent of the doctor's treatment or the capacity in which she was treating the Petitioner. Instead, except for recent prescription medications, the Director noted that the record was devoid of any medical care directly related to either or both incidents for more than nine years. Based on the foregoing, the Director concluded that the Petitioner did not suffer substantial physical or mental

abuse because she “failed to show substantial impairment in her ability to function” or “the extent of serious long term [*sic*] consequences of the robberies.”

On appeal, the Petitioner contends that the Director erred in requiring her to show “substantial impairment in her ability to function” or “serious long-term consequences”—two requirements not found in the regulation.¹ The Petitioner further contends that the Director failed to adequately consider her evidence namely, her mental health medications, multiple affidavits, police reports, psychological evaluation, a letter from her family practice doctor detailing how she suffered and continues to suffer from both incidents.

B. The Petitioner Has Not Established She Suffered Substantial Physical or Mental Abuse as a Result of Qualifying Criminal Activity

The Act and regulations provide that a petitioner is eligible for U-1 nonimmigrant status if he demonstrates, *inter alia*, that she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity. Section 101(a)(15)(U)(i)(I) of the Act; 8 C.F.R. § 214.14(b)(1). The regulations define “[p]hysical or mental abuse” to mean “injury or harm to the victim’s physical person, or harm to or impairment of the emotional or psychological soundness of the victim.” 8 C.F.R. § 214.14(a)(8). The regulations further provide that the determination of 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). As discussed above, the Director determined that the Petitioner did not establish that she suffered substantial physical or mental abuse as a result of the certified criminal activity. We agree with the Director’s determination.

The record reflects that in 2012 and 2013, the Petitioner was robbed at her spouse’s business and outside of her home in [REDACTED] North Carolina. In an affidavit submitted with her U petition, the Petitioner stated that she has not been the same since the [REDACTED] 2012 incident. She claimed that she is distrustful of and hypervigilant around strangers especially when she is in public. She further claimed that she

¹ In support of her contention, the Petitioner references the regulation at 8 C.F.R. § 214.14(a)(8). We note however, as explained below, the regulation at 8 C.F.R. 214.14(a)(8) defines “[p]hysical or mental abuse” while 8 C.F.R § 214.14(b)(1) provides the factors for determining whether such physical or mental abuse is *substantial*. We concede that the regulation does not specifically mention the terms “substantial impairment in [an] ability to function” or “serious long-term consequences.” However, the regulation alludes to both terms as it includes as a factor to consider “the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.” 8 C.F.R. § 214.14(b)(1).

has frequent flashbacks of being robbed at gunpoint, which she has discussed with a mental health professional. The Petitioner provided a mental health evaluation in which a psychotherapist opined that her self-reported symptoms of hypervigilance, elevated levels of fear, anxiety, and apprehension, and decreased concentration and appetite were consistent with Posttraumatic Stress Disorder (PTSD). The Petitioner told the psychotherapist that, “even though her symptoms ha[d] decreased, she still suffer[ed] from elevated fear and anxiety, especially when she [wa]s at home by herself or when her [spouse] ha[d] to leave home to go to work.” The psychotherapist recommended that the Petitioner attend counseling sessions with a qualified mental health clinician. In her most recent affidavit from September 2021, the Petitioner recounted that she used to be an outgoing person. She reiterated that she is now distrustful others and prefers to stay at home. She recalled that she used to spend time at her spouse’s business while he worked late, but now refuses to do so out of fear that something bad will happen again.

While we remain sensitive to the Petitioner’s victimization, the record does not establish, by a preponderance of the evidence, that she has suffered substantial physical or mental abuse as a result of the qualifying criminal activity in 2012 and 2013. As a preliminary matter, the duration of both incidents was short and at the time of the incidents, the Petitioner did not seek out or require medical treatment for physical injuries or mental health treatment for any trauma she may have experienced. Since the incidents, the Petitioner has not sought any medical treatment for physical injuries and her sole mental health evaluation was prepared more than three years after the last incident occurred. In the evaluation, prepared in May 2016, the psychotherapist noted that the Petitioner was experiencing symptoms consistent with PTSD and recommended that she attend counseling sessions with a qualified mental health clinician. There is no evidence in the record that the Petitioner followed the psychotherapist’s recommendation. We acknowledge the Petitioner’s assertion that she was unable to continue with therapy after May 2016 due to financial issues. However, this does not explain why she waited more than three years to seek therapy after experiencing incidents she claims left her “scarred” and increasingly fearful of others. Furthermore, as noted by the Director, the record does not include any treatment related to either or both incidents until very recently. For instance, the Petitioner submits a doctor’s letter from August 2021. However, the letter does not detail the nature or duration of the doctor’s treatment of the Petitioner or the capacity in which she is treating her. Similarly, the photocopy of pill bottles and receipt from Walmart Pharmacy indicate that the Petitioner was prescribed and filled prescriptions for several mental health medications recently—in 2021—and, while relevant, the pictures do not provide additional insight into how her underlying mental health issues impact her day-to-day life or her ability to function. Lastly, the record reflects that the Petitioner has been and continues to be an active in her church as a steward and deacon leader and is raising five children with her spouse.

In sum, although the record indicates that the Petitioner has experienced some difficulties after the qualifying criminal activity occurred, looking to the standard and relevant factors as articulated in the regulation, and the entirety of the record, including the evidence submitted on appeal, the Petitioner has not established, by a preponderance of the evidence, that she suffered substantial physical or mental abuse as a result of having been the victim of qualifying criminal activity, as section 101(a)(15)(U)(i)(I) of the Act requires. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.