



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

Non-Precedent Decision of the  
Administrative Appeals Office

In Re: 21687098

Date: JUN. 10, 2022

Appeal of Vermont 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 Vermont Service Center revoked approval of the Form I-918, Petition for U Nonimmigrant Status (U petition), finding that the Petitioner did not establish, as required, his helpfulness in the investigation or prosecution of qualified criminal activity. The matter is now before us on appeal. 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**

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 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, 376 (AAO 2010).

As required initial evidence, petitioners must submit a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), from a law enforcement official certifying that the petitioner has been, is being, or is likely to be helpful in the investigation or prosecution of it.<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)(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 all the evidence. Section 214(p)(4) of the Act; 8 C.F.R. § 214.14(c)(4).

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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.

USCIS may revoke an approved U petition following a notice of the intent to revoke and where, most relevantly, “[a]pproval of the petition was in error.” 8 C.F.R. § 214.14(h)(2).

## II. ANALYSIS

### A. Background and Procedural History

The Petitioner filed his U petition in November 2011 and, as initial evidence, submitted a Supplement B certified in July 2011 by a lieutenant in the [ ] Police Department in [ ] California (certifying official). According to the Supplement B, the date of the criminal act was [ ] 2008. In Part 3 of the Supplement B, which requests information on the criminal acts, the certifying official stated, “[t]here was a shooting on the 1200 block of [ ] Blvd. in [ ] CA. The victim was shot in the foot. Case was classified as a felonious assault.” The certifying official checked the boxes in Part 4, which requests information on the victim’s helpfulness, indicating that the Petitioner possessed information concerning the criminal activity, has been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity, has not 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 of the crime. However, a description of the Petitioner’s helpfulness was not provided on the Supplement B. Accompanying the Supplement B was an incident report indicating that the case status was closed on [ ] 2008, approximately one week after the crime took place. The “Narratives” portion of the report described officers being dispatched to “investigate a shooting that had just occurred.” Under “Persons Involved,” only the Petitioner was listed and a “no” was indicated next to “Can ID Suspect.”

The Director issued a request for evidence explaining, in pertinent part, that the Supplement B did not clearly indicate the Petitioner’s helpfulness to the investigation or prosecution of the cited criminal activity. In response, the Petitioner provided, among other documents, a personal statement, a statement by his sister, two letters allegedly authored and signed by the certifying official as identified on the Supplement B, a copy of the previously submitted incident report, a medical report, and an edited Supplement B.<sup>2</sup> However, as explained by the Director, these documents did not support the Petitioner’s helpfulness and raised inconsistencies in the record. In his personal statement, the Petitioner stated, in relevant part, that he and his sister were “invited to a friend’s house” and while he, his sister and the friend were waiting outside, “other people that [his] sister[’]s friend knew [ ] came and stopped to say hello.” He added that after a few minutes of them talking he heard shots and one of the bullets hit his foot. He stated his sister ran to the nearby fire station to tell them he was coming, and that his sister identified the color of the shooter’s car to the police. The Petitioner did not explain when his sister spoke to the police, only stating that he remembered seeing a different color car from what his sister recalled. He also described the fire department calling the police and that he told the police “what had happened.” He also stated he gave another statement to the police after being treated at the hospital. He said, “[w]e told the officers that we both [ ] didn’t see the correct type of car or who it was that shot at us.” Although he used the term “we,” he did not state who else gave statements to the police while he was at the hospital. He also did not explain what helpful information he did provide

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<sup>2</sup> The edited Supplement B was a copy of the original Supplement B with two fields filled in by hand: the name of the head of the certifying agency in Part 2 and the statutory citation for the criminal activity investigated or prosecuted in Part 3.3 – California Penal Code Section 245(a)(2).

to the police to assist in their investigation or prosecution of the crime. By contrast, the statement by Petitioner's sister, submitted in response to the RFE, identified the friend they were visiting, described the shooter, described the car the shooter was in and stated her friend and her friend's mother were present when the crime occurred. The Petitioner's sister did not describe going to the fire station for help. She said her friend's mother went to get help, that the firemen came to the Petitioner, and the police arrived and asked for statements. She did not describe being present when the police arrived or providing information regarding witnesses and the shooter to the police. Further discrepancies were raised by the medical report, which contained notes from the Petitioner's follow up visit. According to the medical report, the Petitioner was "walking to a liquor store" when "a drive by gun attack ensued." The letters allegedly authored and signed by the certifying official also did not support the Petitioner's helpfulness and raised authenticity concerns. One of the letters stated, "I, Lt. [ ] . . . received a request for additional documentation on the above listed police report. The only documentation is the [incident report] (2 pages)." The certifying official added that there were no court records because the case was not referred to the district attorney's office. The other letter read:

I, Lt. [ ] received a request for additional information on the helpfulness of [the Petitioner] . . . . As [the Petitioner] was shot in the foot[,] our [d]epartment had a reasonable basis to believe that [the Petitioner] would be helpful in an investigation for this felonious assault. [The Petitioner] provided a contact telephone number and an address to the [ ] Police Department. Our records do not indicate any additional information about the helpfulness of [the Petitioner] but they also do not indicate that he refused to help in the investigation.

Both letters identified the author by the same name. Neither letter by the certifying official was dated. The Director then issued a notice of intent to deny (NOID), explaining that the incident report was incomplete, and the two letters by the certifying official had different signatures. According to the NOID, the certifying official was contacted by USCIS and stated that one of the letters contained a signature that was not his. In response to the NOID, the Petitioner submitted another statement explaining that he was only interviewed once by the police, he gave them all the information he had, and he was not contacted by the police again. This statement differs from his previous statement describing being questioned after the shooting and then at the hospital. Again, the Petitioner did not explain what information he provided and how the information was helpful to the police. The Petitioner also submitted a letter authored by a different lieutenant of police of the [ ] Police Department, who stated:

I am not certain why there would be two separate applications signed off by two different approving commanders. There is a chance that the second application was received via email or a duplicate US mail and signed off by an "acting lieutenant of police" during [the certifying official]'s absence. Insofar as the criminal case in question, there is nothing more the [ ] Police Department] can provide to the applicant to further support his level of cooperation. The investigation has since been closed due to solvability issues. At present, I have no reason to believe any fraud or misrepresentation has been made by the [Petitioner].<sup>3</sup>

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<sup>3</sup> This letter submitted in response to the NOID was authored by a lieutenant who was not the certifying official and alleged

The Director approved the U petition in October 2014.

In May 2018, the Petitioner filed a Form I-485, Application to Register Permanent Residence or Adjust Status (adjustment application). In support of his adjustment application, he submitted a new Supplement B certified in January 2018 by a different lieutenant in the [redacted] Police Department (second certifying official). The new Supplement B was typed and contained the same information as the original supplement B but added handwritten content under helpfulness. The second certifying official stated, “[The Petitioner] provided a sta[tem]ent. He can not ID. [The Petitioner] refused to provide the names of potential witnesses (friends) he was standing with.”

The Director issued a notice of intent to revoke (NOIR) the Petitioner’s U nonimmigrant status in August 2019. The Director explained that the evidence in the record did not indicate that the Petitioner was, is, or is likely to be helpful in the investigation or prosecution of the criminal activity. The Director further noted that eligibility for U nonimmigrant status requires the ongoing responsibility to cooperate with the certifying agency and while the Petitioner may have been helpful at the outset of the investigation or prosecution, he needed to provide evidence to establish that he continued to be helpful in the investigation or prosecution of a qualifying crime. The Petitioner submitted another statement in response to the NOIR. The Petitioner stated he told the police officers that he was standing outside with his “friends” when a car drove by and someone began shooting. He said after he was shot, he “limped” to the fire station nearby where the police met him. The Petitioner added that the police officers asked him who his friends were, and he explained to them that he used the term friend to mean acquaintances and that he could not identify them. The Petitioner did not explain whether he identified his sister or his sister’s friend to the officers. He further explained that the officers met him again at the hospital after his foot was treated and asked him more questions. He did not indicate what helpful information he shared with the police. He said that the officers thought he had shot himself in the foot because of the angle of the wound. He stated he was not contacted again by the police.

The Director revoked the U petition. In the revocation, the Director explained that the police report was vague and did not provide specific details of the investigation, that there appeared to be fraud with respect to the certifying official’s letters, the new Supplement B stated that the Petitioner refused to identify the people he was with, and the remaining evidence raised inconsistencies and did not support the Petitioner’s helpfulness in the investigation and prosecution of the crime. The Director acknowledged that the Petitioner’s sister’s statement contained details of the shooting but explained that there was no evidence in the record that the Petitioner provided his sister as a witness or that the evidence she provided was ever passed on to assist law enforcement.

#### B. The Petitioner Has Not Established Helpfulness

As stated above, the Petitioner must establish that he was helpful to law enforcement officials in their investigation or prosecution of the crime. Section 101(a)(15)(U)(i) of the Act. To meet this

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author of the two letters submitted in response to the RFE. We note that this lieutenant caveats his explanation for why there would be different signatures with “there is a chance” that someone in an acting capacity signed one of the “applications.” Based on his use of “applications,” it is not evident from the lieutenant’s statements that he was aware the discrepancies in signature relate to personalized letters.

requirement, U petitioners must demonstrate that, since initiating cooperation, they “ha[ve] not refused or failed to provide information and assistance reasonably requested.” 8 C.F.R. § 212.14(b)(3). The Petitioner has not met his burden.

We acknowledge that the Petitioner initially cooperated by reporting the crime to law enforcement officials, speaking with them, and providing officials with his contact information. However, in order to establish helpfulness, the Petitioner must also continue to provide information and assistance reasonably requested. We further recognize that the Petitioner submitted Supplement Bs with his U petition and with his adjustment application indicating he was helpful in the investigation and prosecution of the crime and did not refuse or fail to provide assistance reasonably requested, however, the Supplement Bs did not contain statements describing or supporting the helpfulness of the Petitioner. Similarly, the incident report did not contain information on how the Petitioner was helpful. The incident report lacked details on what statements were given by the Petitioner, whether he identified his sister and the friend he was visiting as witnesses, and whether he told the police the location of the crime. The letters by the police department clarified that there was no additional support law enforcement could provide with respect to the Petitioner’s helpfulness. While one of the letters indicated that the Petitioner did not refuse to help, it also said the police department proceeded on the reasonable belief that the Petitioner would be helpful in light of his victim status. The letters did not actually acknowledge that he was helpful other than cooperating and giving his contact information. According to the record, the case was not sent to the district attorney for prosecution and closed less than a week after the Petitioner was shot due to solvability issues. Without support in the record, the Supplement Bs provide limited evidentiary value in establishing the Petitioner’s helpfulness. See 8 C.F.R. § 214.14(c)(4) (USCIS determines, in its sole discretion, the evidentiary value of all evidence, including the Supplement B).

Moreover, based on Petitioner’s own statements, he did not have answers to the police’s questions. He said he was unable to provide information on the “correct type of car” or who shot at him. The Petitioner has submitted a number of statements but does not describe what, if any, helpful information he provided to the police to assist in their investigation of the crime. He included a statement by his sister that had details on witnesses, a description of the shooter, and the shooter’s car. However, the record does not indicate that this information was provided to the police. In addition, and critically, the Supplement B submitted with the Petitioner’s adjustment application expressly stated the Petitioner was not able to identify any suspects, which the Petitioner’s statements acknowledge, and further stated that he “refused” to provide the names of other potential witnesses. The Petitioner described the individuals at his friend’s home as acquaintances and explained he informed the police that this was why he was not able to identify them. The Petitioner asserts on appeal that his inability to identify individuals because he was “ignorant” of their identities does not justify a revocation of the Petitioner’s U nonimmigrant status.<sup>4</sup> However, the Petitioner was aware that his sister had information

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<sup>4</sup> The Petitioner refers to one of our non-precedent decisions in support of his assertion that his inability to identify witnesses did not amount to refusing assistance reasonably requested by law enforcement. Non-precedent decisions apply existing law and policy to the specific facts of the individual case and may be distinguishable based on the evidence in the record of proceedings, the issues considered, and applicable law and policy. In the non-precedent decision, we concluded that a Petitioner’s refusal to sign a victim impact statement out of fear of future harm from her abuser did not amount to failure to provide assistance to law enforcement reasonably requested. The facts and issues considered here are distinguishable from the non-precedent decision, i.e., the Petitioner is not a victim of domestic violence and did not allege

on the crime, but it is not evident in the record that he shared this information. While the Petitioner stated he was unable to identify the individuals he was standing with outside, his statements indicate that the friend whose home he was visiting was with him and he does not state that he provided the friend's name to law enforcement. The record is also inconsistent on where the crime took place. The Petitioner's statements indicate he was at a friend's home, but the medical report states he was walking to the liquor store. The incident report only included the block address, not a specific address, of where the crime occurred. There is no clear indication in the record that the police were aware of where the shooting occurred, which would impact their ability to gather evidence. Also, the Petitioner did not establish where he was when he met the police and who was with him. Whether the Petitioner went to the fire station to report the crime or whether the police met the Petitioner at his friend's home, or in front of the liquor store is relevant to whether, for example, the police had access to witnesses. In sum, the record indicates that the Petitioner was unable to provide a description of his shooter or his shooter's car and thereby unable to identify his assailant, was unwilling to provide names of witnesses, gave no indication of what information he did share with law enforcement, and submitted evidence that raised issues regarding whether he was indeed helpful, i.e., whether he identified the crime scene and the people he did know, to law enforcement. Furthermore, the reliability of the evidence provided by the Petitioner has been questioned and the Petitioner has not explained how there would be two different signatures on the letters authored by the certifying official. When reviewed as a whole, the record does not support the Petitioner's statements that he was helpful to law enforcement pursuant to section 101(a)(15)(U)(i) of the Act.

### III. CONCLUSION

The Petitioner has not overcome the basis of the Director's revocation of his U petition and established by a preponderance of the evidence that he was helpful, is being helpful, or is likely to be helpful to law enforcement officials in the investigation or prosecution of qualifying criminal activity. The Petitioner therefore cannot establish eligibility for U nonimmigrant classification under section 101(a)(15)(U) of the Act.

ORDER: The appeal is dismissed.

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that he feared retribution for identifying witnesses. Moreover, this decision was not published as a precedent and therefore does not bind USCIS officers in future adjudications. See 8 C.F.R. § 103.3(c) (discussing precedent decisions as binding on agency employees).