



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

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

In Re: 20738540

Date: MAR. 31, 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), concluding that the Petitioner did not establish that he was the victim of a qualifying crime. The matter is now before us on appeal. On appeal, the Petitioner submits a brief asserting that he was the victim of qualifying criminal activity and 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 remand the matter to the Director for the issuance of a new decision.

**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).

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).

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 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 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 Evidence and Procedural History

The Petitioner filed his U petition in May 2016 with a Supplement B signed and certified by an officer in the [redacted] Police Department in [redacted] Arizona (certifying official) whose exact job title was not specified. The certifying official checked a box indicating that the Petitioner was the victim of criminal activity involving or similar to "Felonious Assault." The certifying official indicated that the criminal activity occurred in [redacted] 2010, when the Petitioner was 14 years of age. The certifying official further cited to section 13-1204(A)(6) (aggravated assault on a minor) of the Arizona Revised Statutes Annotated (Ariz. Rev. Stat. Ann.) as the specific statutory citation investigated or prosecuted. When asked to provide a description of the criminal activity being investigated or prosecuted, as well as any known or documented injury to the Petitioner, the certifying official stated that "[t]he victim was attacked by a group of five men who had robbed a convenient [*sic*] store" and further indicated "[t]he victim was in shock for a long time. He had to go to counseling as a result of what happened."

The police report accompanying the Supplement B indicated that the officer was dispatched to the location in response to a report of a highway robbery. The narrative section of the police report indicated that the Petitioner was walking home after purchasing items from a convenience store when he was confronted by five masked male individuals who asked him what he had told the convenience store clerk, and the Petitioner stated that he told the clerk nothing. One of the individuals pushed the Petitioner in the chest and then they frisked him by going through his pockets before stealing his cell phone, five dollars' worth of quarters, two drinks he had just purchased, and his middle school identification card prior to leaving the scene. Responding officers were unable to locate the perpetrators after canvassing the surrounding area. The police report also noted the Petitioner stated he was not injured during the incident.

In his personal statement, the Petitioner described being near the entrance of the trailer park where he lived when he was confronted by five men who pushed him around and frisked him and robbed him of all the items he had in his possession including his phone, wallet, identification, money, and soft drinks he had just purchased from the convenience store. The Petitioner further recounted that "[t]hey pushed me around some more and told me that if I ever told anyone what happened to me, they would beat me up and come after my family."

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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.

In response to a request for evidence (RFE) issued by the Director, the Petitioner submitted another personal statement and added that after the perpetrators stole his personal items “they began pushing me around and hitting me. They also kicked me while I was on the ground . . .” The Petitioner also submitted a new Supplement B from the [redacted] Police Department signed and certified by a lieutenant with the special victims unit in August 2021. We note that this Supplement B also indicated section 13-1204(A)(6) of the Ariz. Rev. Stat. Ann. as the specific statutory citation investigated or prosecuted as perpetrated against the Petitioner and provided no new information regarding the incident.

After reviewing the evidence in the record, the Director denied the U petition, concluding that the Petitioner did not establish, as required, that he was the victim of qualifying criminal activity. The Director noted that aggravated assault is not a qualifying crime found within the statute or regulations and further determined that the Petitioner did not establish that the nature and elements of aggravated assault under Arizona law are substantially similar to felonious assault or any other qualifying crime.<sup>2</sup>

## B. Qualifying Criminal Activity

Sections 101(a)(15)(U)(i)(III) and 214(p)(1) of the Act require U petitioners to demonstrate that they have “been helpful, [are] being helpful, or [are] likely to be helpful” to law enforcement authorities “investigating or prosecuting [qualifying] criminal activity,” as certified on a Supplement B from a law enforcement official. The term “investigation or prosecution” of qualifying criminal activity includes “the detection or investigation of a qualifying crime or criminal activity, as well as to the prosecution, conviction, or sentencing of the perpetrator of the qualifying crime or criminal activity.” 8 C.F.R. § 214.14(a)(5). While qualifying criminal activity may occur during the commission of non-qualifying criminal activity, *see Interim Rule, New Classification for Victims of Criminal Activity: Eligibility for “U” Nonimmigrant Status* (U Interim Rule), 72 Fed. Reg. 53014, 53018 (Sept. 17, 2007), the qualifying criminal activity must actually be detected, investigated, or prosecuted by the certifying agency as perpetrated against the petitioner. Section 101(a)(15)(U)(i)(III) of the Act; *see also* 8 C.F.R. § 214.14(b)(3) (requiring helpfulness “to a certifying agency in the investigation or prosecution of the qualifying criminal activity upon which his or her petition is based . . .”).

On appeal, the Petitioner asserts that the record evidence establishes that law enforcement detected, investigated, or prosecuted, and he a victim of, a felony-level assault under the Ariz. Rev. Stat. Ann. At the time of the offense against the Petitioner, section 13-1203 of the Ariz. Rev. Stat. Ann. provided that a “person commits an assault by: 1. Intentionally, knowingly, or recklessly causing any physical injury to another person; or 2. Intentionally placing another person in reasonable apprehension of imminent physical injury; or 3. Knowingly touching another person with the intent to injure, insult or provoke such person.” Ariz. Rev. Stat. Ann. § 13-1203 (West 2010). Section 13-1204(A)(6) of the Ariz. Rev. Stat. Ann. then stated: “A person commits aggravated assault if the person commits assault as prescribed by [section] 13-1203 under any of the following circumstances: . . . 6. If the person is eighteen years of age or older and commits the assault on a minor under fifteen years of age.” (West 2010). Section 13-1204(C) further provides that aggravated assault pursuant to “subsection A, paragraph . . . 6 . . . of this section is a class six felony.” Ariz. Rev. Stat. Ann. § 13-1204(C). As stated

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<sup>2</sup> We acknowledge that the Director made an erroneous reference to the [redacted] California Police Department as well as the California Penal Code at one point in the decision. We view this as a harmless error, however, as the Director otherwise analyzed the case under applicable Arizona law.

above, the Supplement B submitted at the time of the filing of the Petitioner's U petition, as well as the updated Supplement B submitted in response to the Director's RFE, checked the box indicating that the Petitioner was the victim of criminal activity involving or similar to the qualifying crime of felonious assault and cited to section 13-1204(A)(6) of the Ariz. Rev. Stat. Ann. as the specific statute investigated or prosecuted as perpetrated against him—penalizing, as a felony, an assault on minor under 15 years of age. The narrative portion of the Supplement B and accompanying police report further provided, as detected by law enforcement, that the Petitioner was “attacked[,]” “pushed[,]” and “frisked” by several individuals who then robbed him of his belongings, including his middle school identification card. The record, including the Supplements B, police report, and other documentation make clear that, at the time of the offense against the Petitioner, he was fourteen years of age. Accordingly, and on the basis of the above, the Petitioner has established, by a preponderance of the evidence, that law enforcement detected and investigated, and the Petitioner was the victim of, aggravated assault under section 13-1204(A)(6) of the Ariz. Rev. Stat. Ann., an Arizona state equivalent to the qualifying crime of felonious assault. We withdraw the Director's decision to the contrary.

### III. CONCLUSION

The Petitioner has established that law enforcement detected, investigated, or prosecuted, and he was the victim of, a qualifying crime. We therefore withdraw the Director's decision and remand the matter for the Director to determine whether the Petitioner has met his burden of establishing the remaining eligibility criteria for U nonimmigrant status.

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