



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

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

In Re: 23862460

Date: JAN. 11, 2023

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), concluding that the Petitioner did not establish that she: 1) possessed credible and reliable information concerning the qualifying criminal activity upon which the petition is based, and 2) has been, is being, or is likely to be helpful to the investigation or prosecution of the qualifying criminal activity. The matter is now before us on appeal. On appeal, the Petitioner submits a brief and reasserts her eligibility. We review 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, 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; 8 C.F.R. § 214.14(b)(2).

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). To meet this burden, a petitioner must submit a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), from a law enforcement official certifying that the petitioner possesses information concerning the qualifying criminal activity and has been helpful in the investigation or prosecution of it.¹ Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i). A petitioner must also submit any additional evidence available to establish that they “[are] a victim of qualifying criminal activity” and have otherwise satisfied the remaining eligibility criteria. 8 C.F.R. § 214.14(c)(2)(ii). Although a petitioner may submit any evidence for us

¹ The Supplement B also provides factual information concerning the criminal activity, such as the specific violation of law that was investigated or prosecuted.

to consider, we determine, in our sole discretion, the credibility of and weight given to it. Section 214(p)(4) of the Act; 8 C.F.R. § 214.14(c)(4).

II. ANALYSIS

The Petitioner filed her U petition in January 2017 with a Supplement B signed and certified by the Assistant Chief of the Criminal Investigations Command at the [] Police Department in [] Texas (certifying official) based on criminal activity committed against her spouse in 2016. On Part 3.1 of the Supplement B, the certifying official checked a box indicating that the Petitioner was the victim of criminal activity involving or similar to “Other: Indirect Victim.” In Part 3.3, the certifying official listed “murder” as the specific statutory citation investigated or prosecuted as perpetrated against the Petitioner. Where asked to provide a description of the criminal activity being investigated or prosecuted, the certifying official indicated the following: “The applicant, who is the wife of the murdered complainant, is also an indirect victim. The applicant was not a witness to the crime and was not required to give a statement.” In response to Part 4.1, regarding whether the Petitioner possessed information concerning the criminal activity, the certifying official indicated “Yes.” In response to Part 4.2, regarding whether the Petitioner had been, was being, or was likely to be helpful in the investigation or prosecution of the criminal activity, the certifying official indicated “Yes.” Where asked to describe the Petitioner’s helpfulness to law enforcement, the certifying official indicated the following: “The incident was reported to the police. The applicant claims to be an indirect victim because the complainant in the incident is her husband.”

In response to the Director’s request for evidence (RFE), the Petitioner submitted a newly executed Supplement B dated February 2022, this time completed by the Assistant Chief of Support Services at the [] Police Department (second certifying official). The second Supplement B indicates that the Petitioner was the victim of criminal activity involving or similar to “Murder” and lists “Murder Texas Penal Code Sec. 19.02” as the specific statutory citation investigated or prosecuted as perpetrated against the Petitioner. Where asked to provide a description of the criminal activity being investigated or prosecuted, the second certifying official indicated the following: “The applicant’s husband was shot and murdered by the suspect.” In response to Parts 4.1 and 4.2, the second certifying official again indicated “Yes” and provided additional information as follows:

The direct victim is [S-], the applicant is applying as an indirect victim, she is the direct victim’s wife. The applicant is not listed on the report. The direct victim’s brother, [R-] was with the victim when the incident occurred. The victim’s brother, [R-], originally stated . . . [R-] was interviewed at a later time and confessed that he and his brother [S-] were actually picking up prostitutes the day of the incident. . . . [R-] stated that they parked at the motel and he turned around and saw the male suspect pointing a gun at his brother’s back and fired one time. [R-] stated all four of them exited his brother’s truck and he and his brother started to fight the male suspect. [S-] died at the scene. He was shot twice, once in the head that stopped in the neck area, and once in the back that stopped in his lung.

The direct victim was shot during the commission of a crime (Solicitation of Prostitution) when the crime (Murder) occurred.

In a statement before the Director, the Petitioner indicated that she provided information to law enforcement when the [REDACTED] Police Department arrived on the scene. Although the Petitioner indicates that the incident report was submitted, the record before the Director and on appeal does not reflect that it was submitted. The Petitioner's statement states that two people approached her husband and shot him in cold blood, wanting to steal from him and killing him instantly.

The Director denied the U petition, concluding that the Petitioner did not establish she: 1) possessed credible and reliable information concerning the qualifying criminal activity upon which the petition is based and 2) has been, is being, or is likely to be helpful to the investigation or prosecution of the qualifying criminal activity. The Director acknowledged that both Supplements B were marked "Yes" at Parts 4.1 and 4.2, regarding whether the Petitioner possessed information concerning the criminal activity and had been, was being, or was likely to be helpful in the investigation or prosecution of the criminal activity. The Director also acknowledged the Petitioner's statement about her cooperation with police and that she provided information to the police when they arrived on the scene. However, the Director noted that the initial Supplement B specifically stated that she was not a witness to the crime and not required to give a statement, and the second Supplement B stated that the Petitioner was not listed on the police report and that the victim's brother was at the scene, witnessed the crime, possessed information on the crime, and was helpful to police. The Director further noted that the Supplements B did not provide any information on how she helped law enforcement and what specific facts of the criminal activity she possessed, as they only stated that she was the victim's wife and not listed on the police report. The Director noted that the Petitioner did not submit any other evidence to support her assertion of helpfulness, including documentary evidence of the specific information and facts of the criminal activity she possessed to assist in the investigation or prosecution of the qualifying criminal activity, or evidence to show how she was helpful, is helpful, or is likely to be helpful to the investigation or prosecution of the criminal activity. Moreover, the Director highlighted that the RFE specifically requested a statement from a certifying official and supporting evidence of the information pertaining to the qualifying criminal activity possessed by the Petitioner and her helpfulness to law enforcement in the investigation and/or prosecution of the qualifying criminal activity. However, the Petitioner did not submit the requested evidence.

On appeal, the Petitioner does not submit new evidence and instead contends that she is eligible because the Supplements B are marked "Yes" to indicate that she possessed information concerning the criminal activity and had been, was being, or was likely to be helpful in the investigation or prosecution of the criminal activity. She states that she has information and specific facts of the criminal activity that would help law enforcement, prosecutors, judges, or other government officials in the detection, investigation, or prosecution of the qualifying criminal activity because, if this case is prosecuted, she would be an essential witness given the emotional damages this has caused her and her children. The Petitioner indicates that USCIS cannot substitute its own determination of these factors as it is not the one detecting, investigating, or prosecuting the qualifying criminal activity.

Upon consideration of the entire record, including the arguments made on appeal, we adopt and affirm the Director's decision with the comments below. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Chen v. INS*, 87 F.3d 5, 7-8 (1st Cir. 1996) ("[W]e join eight of our sister circuits in ruling that the Board [of Immigration Appeals] need not write at length merely to repeat the [Immigration Judge's (IJ)] findings of fact and his reasons for denying the requested relief, but, rather,

having given individualized consideration to a particular case, may simply state that it affirms the IJ's decision for the reasons set forth in that decision."").

While we recognize that the Petitioner has suffered as a result of the criminal activity against her spouse, the evidence in the record is not sufficient to demonstrate that she possesses credible and reliable information concerning the qualifying criminal activity and that she has been, is being, or is likely to be helpful to the investigation or prosecution of the qualifying criminal activity. We acknowledge that the certifying officials responded "Yes" to questions in both Supplements B to indicate that the Petitioner possessed information concerning the criminal activity and had been, was being, or was likely to be helpful in the investigation or prosecution of the criminal activity. However, the Supplements B, when read as a whole and in conjunction with other relevant evidence in the record, do not establish, by a preponderance of the evidence, that the Petitioner actually possessed any information concerning the criminal activity or had been, was being, or was likely to be helpful in the investigation or prosecution of the criminal activity. *See* 8 C.F.R. § 214.14(b)(2) (requiring that a petitioner demonstrate they possess credible and reliable information establishing that they have knowledge of the details concerning the qualifying criminal activity upon which the petition is based and "must possess specific facts regarding the criminal activity" leading a certifying official to determine that the petitioner has, is, or is likely to provide assistance to the investigation or prosecution of the qualifying criminal activity); 8 C.F.R. § 214.14(c)(4) (stating that the burden "shall be on the petitioner to demonstrate eligibility" and that "USCIS will determine, in its sole discretion, the evidentiary value of [the] . . . submitted evidence, including the . . . Supplement B").

Here, apart from the "Yes" responses at Parts 4.1 and 4.2 of the Supplements B, the sole evidence in support of the Petitioner's assertions of helpfulness and possession of information regarding the qualifying criminal activity, is her own statement before the Director. However, her statement does not provide any information about the details of the incident where and when the qualifying criminal activity occurred. She also did not explain how she had knowledge of the incident if she was not present when it occurred, whether she was at the scene where the criminal activity occurred when the police arrived, or how she was informed of the incident when it occurred. Further, the Petitioner does not demonstrate that she had any knowledge of the details concerning the qualifying criminal activity and does not provide an explanation for the narratives in both Supplements B clearly stating that she was not a witness to the crime and R-, the victim's brother, was with the victim when the incident occurred and provided a statement to law enforcement. Consequently, given the evidence in the Supplements B, indicating that the Petitioner did not witness the qualifying criminal activity and did not provide a statement to the police, and the lack of law enforcement records or other corroborating evidence of her claimed helpfulness and possession of evidence concerning the criminal activity, we agree with the Director that the Petitioner has not demonstrated, by a preponderance of the evidence, that she possesses credible and reliable information establishing her knowledge of the details concerning the qualifying criminal activity upon which the petition is based, or that she has been, is being, or is likely to be helpful to the investigation or prosecution of the qualifying criminal activity, pursuant to 8 C.F.R. § 214.14(b)(2) and (3). Accordingly, the Petitioner has not established her eligibility for U nonimmigrant classification under section 101(a)(15)(U)(i) of the Act.

ORDER: The appeal is dismissed.