



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

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

In Re: 24461951

Date: JAN. 13, 2023

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) on two grounds. First, the Director found the Petitioner was not physically present during the commission of the criminal act; therefore, the Petitioner could not possess information regarding that act or be helpful to law enforcement in the investigation of the crime. Second, the Director concluded the Petitioner had not established he suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity. The Director concurrently denied the Petitioner’s Form I-192, Application for Advance Permission to Enter as Nonimmigrant (waiver application) due to the denial of the underlying U Petition. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

## **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 credible and reliable 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,

A parent of a direct victim under 21 years of age is also considered a victim “where the direct victim . . . is incompetent or incapacitated, and therefore unable to provide information concerning the criminal activity or be helpful in the investigation or prosecution of the criminal activity.” 8 C.F.R. § 214.14(14)(i). The regulations define credible and reliable information as “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.” 8 C.F.R. § 214.14(b)(2). A parent may possess such information on behalf of a minor child who has not yet reached 16 years of age. *Id.*

Whether substantial physical or mental abuse was suffered is decided after considering the record as a whole, including the following factors laid out by regulation:

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.

Section 214(b)(1) of the Act; 8 C.F.R. § 214.14(b)(1).

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 petitioner's credible and reliable information regarding, and helpfulness in the investigation or prosecution of, the qualifying criminal activity perpetrated against them. Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i). 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. 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, including the Supplement B. Section 214(p)(4) of the Act; 8 C.F.R. § 214.14(c)(4).

## II. ANALYSIS

### A. Procedural and Factual History

The Petitioner's daughter was the victim of a strongarm robbery in 2010 where she was choked and her chain necklace was stolen. The Petitioner's daughter was eight years old at the time of the incident. The [ ] Police Department [ ] investigated the attack and prepared a police report the same day. In the report, the Petitioner's wife is listed as a parent, but the Petitioner is not listed.

The Petitioner filed the U petition in 2016 as the indirect victim of the attack given his daughter's age when she was assaulted. His U petition contained a Supplement B signed and certified by a detective with the [ ] describing the robbery and certifying that a felonious assault had occurred (2016 Supplement B). The 2016 Supplement B listed the Petitioner's daughter as the victim in Part 1 and indicated that she “and her parents fully cooperated with law enforcement.” The 2016 Supplement B was deficient because it did not list the Petitioner as the victim in Part 1. In 2021, the Petitioner submitted a new Supplement B listing him as the victim (2021 Supplement B). The 2021 Supplement B also certified that the qualifying crime of felonious assault was committed. This form further noted that the due to the attack on the Petitioner's daughter, the family had to relocate. With

respect to helpfulness, the 2021 Supplement B indicated that the Petitioner and his spouse “cooperated with the authorities and attended court hearings.” It also certified that the Petitioner possessed information regarding the criminal activity.

The Director issued a request for evidence (RFE), directing the Petitioner to submit a statement from the certifying official and other evidence to show that he possessed information regarding the criminal activity and was helpful in the investigation or prosecution. The Director also requested additional information regarding substantial physical or mental abuse suffered as a result of having been a victim of qualifying criminal activity. In response, the Petitioner submitted various documents including a personal statement and declarations from family members.

After considering the evidence in the record, the Director denied the U petition. The Director determined that, because the Petitioner did not witness the crime, he had not shown that he possessed information regarding the criminal activity or that he was helpful to the investigation or prosecution of the criminal activity. The Director also noted that the Petitioner “did not submit a statement from a certifying official concerning your possession of information or helpfulness to law enforcement as requested.” Therefore, the Director found the Petitioner’s level of involvement with, and helpfulness to, the investigation could not be determined. The Director further noted that the Petitioner had established a difficult and distressing experience as a result of the assault on his daughter. However, the Director found the record did not establish that the Petitioner’s emotional state significantly impaired his ability to function, as he continued to work and carry out the activities of daily life. The Director determined that the requirements for a showing of substantial abuse had therefore not been met.

On appeal, the Petitioner argues that he possessed credible and reliable information about the crime, and he was helpful to law enforcement in the investigation of the crime. He further argues that he has established a sufficient level of substantial mental abuse. In support, the Petitioner submits a brief, a new affidavit, and copies of previously submitted documents.

#### B. The Petitioner Has Demonstrated that He Possessed Credible and Reliable Information Regarding the Qualifying Criminal Activity

The Director concluded that the Petitioner did not meet his burden of establishing that he possessed credible and reliable information about the qualifying criminal activity because he did not witness the crime occur. Contrary to the Director’s determination, not witnessing the qualifying crime does not preclude the Petitioner from establishing that he was helpful to authorities investigating or prosecuting the crime. *See* section 101(a)(15)(U)(i)(III) of the Act. The Director also erred in requiring an additional statement from a certifying official detailing the Petitioner’s involvement and helpfulness; there is no statutory or regulatory requirement that law enforcement submit documentation beyond a Supplement B.

The regulations governing U petitions do not specify that a U petitioner must have direct or first-hand knowledge of the criminal activity being investigated. Rather, the regulations only require that the information be “credible and reliable” and that the individual have knowledge of specific facts and details of the criminal activity. 8 C.F.R. § 214.14(b)(2). Here, the evidence on record demonstrates that the Petitioner did possess credible and reliable information regarding the qualifying crime.

The 2016 Supplement B indicated that qualifying criminal activity had occurred. On the 2021 Supplement B, the certifying official certified the Petitioner as the victim of qualifying criminal activity and confirmed that he had information regarding the criminal activity. The Petitioner also submitted various affidavits detailing his knowledge of the crime. He indicated that, although he is not listed on the police report, he witnessed his daughter's condition in the immediate aftermath of the assault. He was present during initial police questioning and assisted his daughter in providing information along with his wife. His wife also attested to his presence during the initial investigation in her personal statement. The Petitioner personally observed his daughter's injuries following the assault; the [ ] report confirms that physical injuries were visible including bruising and scratches. The Petitioner assisted in identifying the perpetrators by helping his daughter to complete a line up identification. The Petitioner indicated that he obtained further details of the criminal activity when consoling his daughter and when the family members of the perpetrators threatened him and his daughter in court. Finally, the Petitioner was prepared to provide information by participating in a restitution hearing for the value of the stolen property, but he did not testify in court after consultation with the prosecution.

Considering this evidence, the Petitioner has established by a preponderance of the evidence that he possessed credible and reliable information and specific facts concerning the qualifying criminal activity as contemplated by section 101(a)(15)(U)(i)(II) of the Act.

C. The Petitioner Has Demonstrated That He Was Helpful in the Investigation or Prosecution of Qualifying Criminal Activity

Upon review, the Petitioner has also shown that he was helpful in the investigation or prosecution of the qualifying crime. Although the Petitioner did not witness the actual assault, the certifying official indicated in both Supplements B that the Petitioner was helpful to the investigation or prosecution of the qualifying crime. The 2021 Supplement B noted that the Petitioner attended court hearings and cooperated with the authorities. In his affidavits, the Petitioner indicated that he was present to assist his young daughter to answer police questions, complete a line up identification, and attend court dates in furtherance of the prosecution. He was also prepared to testify to the value of the stolen property and did not ultimately do so only upon the recommendation of the prosecution. There is no indication on record that he ever unreasonably refused to cooperate or provide assistance. As such, the Petitioner has established by a preponderance of the evidence that he has been helpful to the certifying agency regarding the crime, as required by section 101(a)(15)(U)(i)(III) of the Act and 8 C.F.R. § 214.14(b)(3).

D. The Petitioner Has Provided New Evidence Regarding Substantial Abuse

The Director also denied the U petition after concluding that the Petitioner did not show substantial abuse and retained an ability to function that was not significantly impaired. On appeal, the Petitioner has submitted an additional affidavit outlining details of the harm suffered in the aftermath of the criminal act and contesting the Director's reliance on his continued employment to show a lack of substantial abuse. He also explains why he did not seek psychological treatment and outlines additional symptoms he experienced following the assault. These additional factors are properly considered by the Director in the first instance. As a result, we will remand to the Director to consider

the Petitioner's additional arguments regarding substantial harm and for a determination of whether the Petitioner's mental suffering was sufficiently serious to be considered substantial when considering all regulatory factors and the record as a whole.

### III. CONCLUSION

On appeal, the Petitioner has established his helpfulness in the investigation and prosecution of qualifying criminal activity, and that he possesses information about the crime sufficient to support a law enforcement certification. The Petitioner has raised new arguments with respect to the determination of substantial mental abuse that are properly decided by the Director in the first instance. We will remand the case to the Director for consideration of substantial harm and the remaining U petition eligibility factors.

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