



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

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

In Re: 21964019

Date: AUG. 16, 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), and the matter is before us on appeal. The Administrative Appeals Office (AAO) reviews all 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. 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)(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. Relevant Facts and Procedural History

The Petitioner, a native and citizen of Mexico, filed her U petition with a Supplement B signed by the Deputy Chief (certifying official) of the [REDACTED] Illinois Police Department (certifying agency), based on an [REDACTED] 2015 incident involving a home invasion. In response to Part 3.1 of the Supplement B, which provides check boxes for the 28 qualifying criminal activities listed in section 101(a)(15)(U)(iii) of the Act, the certifying agency indicated that the Petitioner was a victim of criminal activity involving or similar to “Other – Home Invasion.” The certifying official left blank part 3.3, which requests the statutory citations for the criminal activity investigated or prosecuted. When asked to provide a description of the criminal activity being investigated or prosecuted, the certifying official stated that the Petitioner’s daughters were victims of a home invasion and that the perpetrator entered the home through the daughters’ bedroom window. The certifying official further stated that the perpetrator had his pants unbuttoned. When asked to provide a description of any known or documented injury to the Petitioner, the certifying official stated that the Petitioner and her daughters suffered great psychological and emotional trauma and that they are receiving therapy and medication for anxiety, depression, sleep disturbance, and severe mood swings.

The Director issued a request for evidence (RFE), providing the Petitioner an opportunity to submit “additional evidence to demonstrate that the crime listed on [the] law enforcement certification would be considered a crime related to those listed in [the U] regulation.” In response to the RFE, the Petitioner provided, among other things, an updated Supplement B checking the box that she was the victim of criminal activity involving or similar to “Felonious Assault.” The certifying official listed 720 Illinois Compiled Statutes (Ill. Comp. Stat.) § 5/19-6, defining the crime of home invasion, as the statute investigated or prosecuted as perpetrated against the Petitioner. In the additional portions of the Supplement B that request descriptions of the criminal activity being investigated and/or prosecuted, and any known or documented injury, the certifying official provided the same information as on the original Supplement B.

The Director denied the U petition, determining that the Petitioner had not demonstrated that she was a victim of qualifying criminal activity. The Director explained that the Petitioner had not established that a home invasion, the crime of which she was a victim, was a qualifying crime or substantially similar to the qualifying crime of felonious assault. The Director also noted that the Petitioner did not provide an incident report for the crime.

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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.

On appeal, the Petitioner does not address the Director's determination that the crime of which she was a victim is a qualifying crime or is substantially similar to a qualifying crime. Rather, the Petitioner provides letters from herself, her husband, and daughters, depicting the home invasion incident and how it has affected them physically and emotionally. The Petitioner also submits copies of her and her daughters' medical records.

#### B. Law Enforcement Did Not Detect, Investigate, or Prosecute a Qualifying Crime as Perpetrated Against the Petitioner

The Act requires 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. Sections 101(a)(15)(U)(i)(III) and 214(p)(1) of the Act. 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).

The Petitioner contends that a man entered her home in the middle of the night through her daughters' bedroom window with the intention of hurting her daughters. At the outset, while we do not diminish the fear the Petitioner may have experienced during, and as a result of, the incident,<sup>2</sup> evidence describing what may appear to be, or hypothetically could have been charged as, a qualifying crime as a matter of fact is not sufficient to establish a petitioner's eligibility absent evidence that the certifying law enforcement agency detected, investigated, or prosecuted the qualifying crime as perpetrated against the petitioner under the criminal laws of its jurisdiction. Sections 101(a)(15)(U)(i)(III) and 214(p)(1) of the Act. 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*, 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 . . .").

More specifically, as noted by the Director, the Petitioner has not established that law enforcement detected, investigated, or prosecuted the qualifying crime of felonious assault as perpetrated against her. While in 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 "Felonious Assault," a certifying official's completion of part 3.1 is not conclusory evidence that a petitioner is the victim of qualifying criminal activity. Part 3.1 of the Supplement B identifies the general categories of criminal activity to which the offense(s) in part 3.3 may relate. *See* 72 Fed. Reg. at 53018 (specifying that the statutory list of qualifying criminal activities represent general categories of crimes and not specific statutory violations). Here, the Supplement B, when read as a whole and in conjunction with other evidence in the record, does not establish that law enforcement actually detected, investigated, or prosecuted the qualifying crime of felonious assault as perpetrated against the Petitioner. *See* 8 C.F.R. § 214.14(c)(4)

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<sup>2</sup> We acknowledge that the record contains a letter and a medical summary report from [REDACTED] Family Health Center which state that the Petitioner is receiving treatment for post-traumatic stress disorder, depression, and anxiety due to the home invasion.

(stating that it is the petitioner's burden to establish eligibility and that USCIS determines, in its sole discretion, the credibility of and weight given to all of the evidence, including the Supplement B).

#### C. The Crime Detected, Investigated, or Prosecuted is Not Substantially Similar to a Qualifying Crime

When a certified offense is not a qualifying criminal activity under section 101(a)(15)(U)(iii) of the Act, petitioners must establish that the certified offense otherwise involves such activity, or that the nature and elements of the certified offense are substantially similar to a qualifying criminal activity. Section 101(a)(15)(U)(iii) of the Act (providing that 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”); 8 C.F.R. § 214.14(a)(9) (providing that 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).

Petitioners may meet this burden by comparing the offense certified as detected, investigated, or prosecuted as perpetrated against them with the federal, state, or local jurisdiction's statutory equivalent to the qualifying criminal activity at section 101(a)(15)(U)(iii) of the Act. *Id.* Mere overlap with, or commonalities between, the certified offense and the statutory equivalent is not sufficient to establish that the offense “involved”—or was “substantially similar” to—a “qualifying crime or qualifying criminal activity” as listed in section 101(a)(15)(U)(iii) of the Act and defined at 8 C.F.R. § 214.14(a)(9).

The Petitioner does not offer a comparison between the nature and the elements of the offense that law enforcement detected, investigated, or prosecuted—home invasion—and Illinois' equivalent to a qualifying crime to demonstrate that the two statutes are substantially similar. *See* 8 C.F.R. § 214.14(a)(9). Accordingly, the Petitioner has not satisfied her burden to demonstrate eligibility.

#### D. The Remaining Eligibility Criteria for U-1 Classification

The U-1 classification has four separate and distinct statutory eligibility criteria, each of which is dependent upon a showing that the petitioner is a victim of qualifying criminal activity. As the Petitioner has not established that she was the victim of a qualifying criminal activity, or an offense that is substantially similar to a qualifying criminal activity, she necessarily cannot satisfy the criteria at section 101(a)(15)(U)(i) of the Act.

### III. CONCLUSION

The record shows that the Petitioner was the unfortunate victim of a home invasion, but this offense is not, does not involve, and is not substantially similar to any qualifying crime at section 101(a)(15)(U)(iii) of the Act. The Petitioner is consequently ineligible for U nonimmigrant classification under section 101(a)(15)(U) of the Act.

**ORDER:** The appeal is dismissed.