



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 23271155

Date: DEC. 21, 2022

Appeal of National Benefits 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), as a victim of qualifying criminal activity. The Director of the Nebraska Service Center (Director) denied the Form I-918, Petition for U Nonimmigrant Status (U petition). The matter is now before us on appeal. On appeal, the Petitioner asserts her eligibility for U-1 nonimmigrant classification. 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 remand the matter to the Director for further proceedings.

I. LAW

To establish eligibility for U-1 Nonimmigrant classification, a petitioner must show, inter alia, that they have been helpful, are being helpful, or are likely to be helpful to law enforcement authorities investigating or prosecuting the qualifying criminal activity perpetrated against them. Section 101(a)(15)(U)(i) of the Act; 8 C.F.R. § 214.14(b)(3). This requirement includes demonstrating that, since initiating cooperation, the petitioner “has not refused or failed to provide information and assistance reasonably requested.” 8 C.F.R. 212.14(b)(3). The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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 the petitioners’ credible and reliable information regarding, and helpfulness in the investigation or prosecution of, the qualifying criminal activity perpetrated against them.¹ 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).

¹ 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.

II. ANALYSIS

A. Procedural and Factual History

The record reflects that in August 2015 the Petitioner filed her U petition with a Supplement B signed and certified by a sergeant in the [] Arizona Police Department (certifying official). In Part 3 of the Supplement B, the certifying official indicated that in [] 2002, the Petitioner was the victim of domestic violence and assault, perpetrated by her former spouse. In Part 4 of the Supplement B, the certifying official indicated that the Petitioner has been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity and had not been requested to provide further assistance or unreasonably refused to provide such assistance. In Part 5 of the Supplement B, the certifying official indicated that “the victim was unsure if she wanted prosecution however the case was forwarded, and charges were filed.” In January 2020, the Director issued a request for evidence (RFE) seeking more information regarding the notation in the Supplement B reflecting the Petitioner’s reluctance to move forward with the prosecution of her former spouse. In response, the Applicant submitted, inter alia, police reports relating to assaults on the Petitioner by her former spouse in [] 2002, [] 2003, and [] 2004; a second Supplement B indicating that she was the victim of domestic violence and assault stemming from criminal activity in [] 2003, was helpful to law enforcement, and had not refused or failed to provide assistance reasonably requested in the investigation or prosecution of the criminal activity; and correspondence between the Petitioner and the [] Police Department.

After considering the evidence in the record, the Director denied the U petition, highlighting the Petitioner’s reluctance to prosecute her former spouse for the 2002 offense, and concluding that she did not establish that she had not refused or failed to provide assistance reasonably requested in the investigation or prosecution of the criminal activity.

B. The Petitioner Has Established That She Was Helpful in the Investigation or Prosecution of Qualifying Criminal Activity

As noted above, the helpfulness requirement includes demonstrating that, since initiating cooperation, the petitioner “has not refused or failed to provide information and assistance reasonably requested.” 8 C.F.R. 212.14(b)(3). This regulatory provision “exclude[s] from eligibility those alien victims who, after initiating cooperation, refuse to provide continuing assistance when reasonably requested.” New Classification for Victims of Criminal Activity; Eligibility for U Nonimmigrant Status; Interim Rule, Supplementary Information, 72 Fed. Reg. 53014, 53019 (Sept. 17, 2007).

As a preliminary matter, on both Supplements B, the certifying official indicated that the Petitioner was helpful to law enforcement and had not refused or failed to provide assistance reasonably requested in the investigation or prosecution of the criminal activity. We acknowledge that the first Supplement B indicated that the Petitioner was unsure as to whether she should proceed with the prosecution of her former spouse. On appeal, the Petitioner asserts that her reluctance to assist in the prosecution of her former spouse in 2002 incident does not negate the assistance she provided to the police department investigating her spouse’s subsequent criminal activity. She contends that her filing of police reports related to two additional incidents of domestic violence in 2003 and 2004, and the

content of these reports documenting her cooperation in the investigations, demonstrate that she clearly desired to assist law enforcement.

Here, the Petitioner has credibly demonstrated that her reluctance to cooperate applied only to the 2002 incident. The police reports, relating to the 2003 and 2004 domestic violence incidents, reflect that the Petitioner aided in the investigations of the criminal activity. Further, the 2004 police report notes that the Petitioner “stated that she would aid in the prosecution of this matter,” and police records indicate that the Petitioner’s former spouse was arrested in 2005. As such, the Petitioner has established she was helpful to the certifying agency and did not unreasonably refuse to provide assistance in the investigation or prosecution of the qualifying crime after initiating cooperation, as required by 8 C.F.R. § 214.14(b)(3). Accordingly, the matter will be remanded to the Director for consideration of whether the Petitioner satisfies the remaining statutory eligibility criteria for U nonimmigrant classification under section 101(a)(15)(U)(i) of the Act.

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