



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

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

In Re: 18072651

Date: FEB. 3, 2022

Appeal of Vermont 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 Vermont Service Center denied the Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that the Petitioner did not establish, as required, her helpfulness in the investigation or prosecution of qualified criminal activity. On appeal, the Petitioner submits a brief asserting that she has met the helpfulness requirement. 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 this matter for further proceedings consistent with this 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 U-1 nonimmigrant classification affords nonimmigrant status to victims of qualifying criminal activity who demonstrate, among other requirements, that they “[have] been helpful, [are] being helpful, or [are] likely to be helpful” to a law enforcement agency in the investigation or prosecution¹ of the crime. Section 101(a)(15)(U)(i) of the Act. To meet this requirement, a U petitioner must demonstrate that, since initiating cooperation, he or she “has not refused or failed to provide information and assistance reasonably requested.” 8 C.F.R. § 212.14(b)(3). A U petition must be filed with a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B) from a law enforcement official certifying the petitioner’s helpfulness in the investigation or prosecution of the qualifying crime. Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i).

¹ The term “investigation or prosecution,” as used in section 101(a)(15)(U)(i) of the Act, also includes the “detection” of a qualifying crime or criminal activity. 8 C.F.R. § 214.14(a)(5).

U.S. Citizenship and Immigration Services (USCIS) has sole jurisdiction over U petitions and the petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. 8 C.F.R. § 214.14(c)(4); *Matter of Chawathe*, 25 &N Dec. 369, 375 AAO 2010).

II. ANALYSIS

The Petitioner, a native and citizen of Mexico, filed her U petition based on a [REDACTED] 2009 incident in which she was subject to abuse by her spouse. With her U petition, the Petitioner submitted a July 2015 Supplement B from the chief of police of the [REDACTED] Police in Illinois (certifying agency). In response to Part 4.2, which asks whether the Petitioner has been, is being, or is likely to be helpful in the investigation or prosecution of the criminal activity, the certifying agency indicated “Yes.” In response to Part 4.4, concerning whether the Petitioner has unreasonably refused to provide assistance in the investigation or prosecution of the criminal activity, the certifying agency indicated “No.” In the narrative portion of the Supplement B, the certifying agency explained that the Petitioner “cooperated with the police and described the incident in full detail. At no point did she ever fail to cooperate with the police.” The Petitioner also submitted a statement, an incident report, a petition for order of protection, and a protection order. In her statement, she described a history of spousal abuse and mentioned that one evening her spouse threatened her with abuse, she called the police and told them what happened, and she did not press charges as her daughter was scared and did not want him to go to jail. The incident report provides that the Petitioner was in a verbal argument with her spouse, she claimed he hit her in the past, she was taken to the police department and advised of her rights under Illinois state law, and no further police action was taken. In her petition for order of protection, the Petitioner stated that her spouse abused her in the past, he threatened her with nonconsensual intercourse, she called the police as a result, she did not want him arrested, and just wanted to leave with her children. The Director determined that these documents were insufficient to establish the helpfulness requirement and issued a request for evidence (RFE).

In response to the RFE, the Petitioner submitted a brief and another statement, although her statement did not discuss the helpfulness requirement. In finding that the Petitioner did not satisfy the helpfulness requirement, the Director noted her statement indicating she did not press charges is contrary with the Supplement B, which provides that “at no point did she ever fail to cooperate with the police.” The Director also stated that reporting a crime to authorities alone, while being unwilling to provide information concerning the criminal activity to allow an investigation to move forward or refusing to continue to provide assistance to an investigation or prosecution, does not further the purpose of the U visa.

On appeal, the Petitioner asserts that the Director erred in determining that her request for charges to be dropped is itself a disqualifying form of unhelpfulness. The Petitioner contends that in Illinois a prosecutor has the sole discretion to charge or not charge a case, and a victim’s request that no charges be brought is only a request for law enforcement to exercise discretion in favor of the perpetrator. She states that this request does not interfere, undermine, or complicate the actions of law enforcement, and furthermore, there is no evidence that she recanted a statement, refused to appear for a subpoena, or threatened to undermine her case. On the contrary, she argues that she cooperated with law enforcement, they decided to investigate her past claims of abuse, and they declined to take further action in regard to the [REDACTED] 2009 incident. The Petitioner claims that she did not “only report a crime,” was never “unwilling to provide information,” and never “refused to continue to provide

assistance.” She further claims that she told the police what happened the night of the incident and they declined to take further action, but not due to her refusal to cooperate in the investigation. In support, the Petitioner points to the fact that the certifying official certified that she cooperated with law enforcement on the Supplement B.

In the present case, the Petitioner has sufficiently established her helpfulness in the investigation and prosecution of qualified criminal activity as required by section 101(a)(15)(U)(i)(III) of the Act and by regulation at 8 C.F.R. § 214.14(b)(3).

The regulations require the Petitioner to show that “since the initiation of cooperation, [s]he has not refused or failed to provide information and assistance reasonably requested.” 8 C.F.R. § 214.14(b)(3). The preamble to the U nonimmigrant rule states, in pertinent part:

[USCIS] interprets “helpful” to mean assisting law enforcement authorities in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim. USCIS is excluding from eligibility those . . . victims who, after initiating cooperation, refuse to provide continuing assistance when reasonably requested. . . . USCIS believes that the statute imposes an ongoing responsibility on the . . . victim to provide assistance, assuming there is an ongoing need for the applicant’s assistance.

Interim Rule, New Classification for Victims of Criminal Activity: Eligibility for “U” Nonimmigrant Status, 72 Fed. Reg. 53014, 53019 (Sept. 17, 2007).

Here, nothing in the record indicates that the Petitioner refused or failed to provide information or assistance reasonably requested by the [redacted] Police at any point after she commenced her cooperation in its investigation of the qualifying criminal activity. To the contrary, the certifying official specified on the Supplement B that the Petitioner was helpful in the investigation and prosecution of the criminal activity perpetrated against her, that the Petitioner did not unreasonably refuse to provide assistance in the investigation or prosecution, and that she “cooperated with the police and described the incident in full detail. At no point did she ever fail to cooperate with the police.”

Although the Petitioner stated that she did not want to press charges and the police incident report indicated that no further police action was taken, the record shows that the Petitioner did in fact fully relay the events of criminal activity to the police.² Additionally, the Petitioner’s preference not to pursue charges against her spouse out of concern for her daughter does not negate her reporting of the crime and helpfulness to the certifying agency. Based on the foregoing, the evidence of record demonstrates that the Petitioner submitted sufficient evidence to establish, by a preponderance of the evidence, that she has been helpful, is being helpful, or is likely to be helpful as imposed by statute and regulation.

² Section 214(p)(1) of the Act requires that the petitioner file a Supplement B from the *certifying agency investigating qualifying criminal activity* that states that the petitioner has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of criminal activity. Here, that agency is the [redacted] Police, which certified the Petitioner as being helpful in its investigation.

III. CONCLUSION

The Petitioner has demonstrated, by a preponderance of the evidence, that she was helpful in the investigation or prosecution of qualifying criminal activity. Therefore, we will remand the matter to the Director for consideration of whether the Petitioner has met the remaining eligibility requirements for U nonimmigrant classification under section 101(a)(15)(U)(i) of the Act.

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