



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

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

In Re: 19445737

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 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 that she possessed credible and reliable information concerning the qualifying criminal activity upon which the petition is based. The matter is now before us on appeal. On appeal, the Petitioner submits a brief and reasserts her eligibility. 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 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.

Relevant regulations reiterate that a petitioner possess “credible and reliable information establishing that he or she has knowledge of the details concerning the qualifying criminal activity upon which his or her petition is based. The [petitioner] must possess specific facts regarding the criminal activity” 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). The petitioner must also submit any additional evidence available to establish that he

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

“is a victim of qualifying criminal activity” and has otherwise satisfied the remaining eligibility criteria. 8 C.F.R. § 214.14(c)(2)(ii). Although a petitioner may submit any evidence for us 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

A. Relevant Facts and Procedural History

The Petitioner filed her U petition in December 2015 with a Supplement B signed and certified by the Lieutenant of Police at the [redacted] Police Department in [redacted] California (certifying official). 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: P.C. 422 [Criminal Threats].” In Part 3.3, the certifying official listed “P.C. 422” 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:

Suspect approached applicant. He produced a knife and he threaten [*sic*] her, the knife was inches from her face. She was in fear for her life and safety.

Where asked to provide a description of any known or documented injuries to the victim, the certifying official indicated that the Petitioner “was in fear for her life” and “suffered and continue [*sic*] to suffer severe psychological trauma.” Where asked to describe the Petitioner’s helpfulness to law enforcement, the certifying official indicated the following:

Victim called the police and described her assailant and she would also be willing to ID him if he were apprehended.

The police report accompanying the Supplement B indicates that the Petitioner was sitting outside of a church holding a 6-month-old baby she was the nanny for when an unknown man approached her holding a knife, within a few inches of her, and threatened that he was going to kill her. It states that the Petitioner then ran away and got in her car, which was parked in the church parking lot, and the suspect fled on foot. The officer stated that he searched the area for witnesses and the suspect, but found neither.

The Petitioner also submitted a letter from a Marriage and Family Therapist (Therapist) describing the Petitioner’s account of the incident. The letter stated that the Petitioner was sitting on a bench with the infant outside of a school when she was approached by an unknown man holding a knife and threatening to kill her as he lunged at her. She stated that the man began to yell obscenities at her and she tucked the infant to her side to protect him. She stated that the man seemed like he was going to attack her but turned around and ran off, which is when she rushed to her vehicle, locked the doors, and called police. It further stated that the Petitioner found out that the suspect was charged with two felony offenses, criminal threats, threatened crime with intent to terrorize, and exhibiting a deadly weapon, serious body injury intent.

In response to the Director's request for evidence (RFE), the Petitioner submitted a "Personal Declaration," dated July 16, 2020, describing the incident, as follows:

I, [Petitioner], do hereby declare and affirm as follows;
I was the night manager at McDonalds when two men burst into the store near closing time;
One of them was armed with a shotgun and they demanded money and they demanded that I open the safe;
The shotgun was very visible and it was clavier [*sic*] that I would be shot if I did not comply;
I was in fear for my life and my safety and I complied;
I was terrified and in fear for my life;
This even has created real, continuing, and residual psychological harm;
It created real problems for me in terms of my sense of safety.
I declare under the penalty of perjury that the foregoing is true and correct.

In response to a Notice of Intent to Deny (NOID) from the Director, the Petitioner, through counsel, stated that "the declaration regarding the robbery at a McDonald's was pure ministerial error as she has never been the victim of a robbery at McDonalds." The Petitioner then submitted two "Personal Declarations," the first stating that, "under penalty of perjury," she "[has] never worked at McDonalds in [her] life and [has] never been the victim of a robbery at a McDonalds." She indicated that during the coronavirus quarantine/lockdown, a "paralegal mailed [her] a statement to sign and [the paralegal] said it was a formality and [she] signed it and mailed it back to the office." The Petitioner further explained that "[her] English is very limited and [she] did not know the contents when [she] signed and [she] must repeat [she] was the victim of the incident where the stranger with a knife threatened [her] life." The second personal declaration from the Petitioner described the incident, as follows:

I, [Petitioner], do hereby declare and affirm as follows;
On or about [redacted] 2015, I was working as a nanny and I was holding a six month old baby in my arms in [redacted] CA;
Suddenly, I was confronted by an unknown person, who threatened me with a three inch knife;
He used a derogatory term for a woman and he said he was going to kill me;
I was paralyzed with fear and I was also fearful for the life and safety of the six month old child that I was carrying;
I panicked and I ran as fast as I could to my car that was parked near the church and I fled the scene;
I explained all of this to the police;
This incident left me feeling anxious and fearful at all times; it has affected my sense of trust, safety and intimacy;
I declare under the penalty of perjury that the foregoing is true and correct.

The Director denied the U petition, concluding that credible and reliable information was not provided establishing that the Petitioner had knowledge of the details concerning the qualifying criminal activity upon which the petition is based, pursuant to 8 C.F.R. § 214.14(b)(2). In her decision, the Director outlined all of the accounts provided regarding the incident in [redacted] 2015 and found multiple

discrepancies among them. The Director specifically noted that each of the Petitioner's "Personal Declarations" were also signed by a translator who declared under penalty of perjury that the declaration was read to the Petitioner in Spanish and she concurred it was a true and accurate translation of her statement. The Director also highlighted that, other than counsel's statements regarding the "pure ministerial error" in the Petitioner's first statement, the Petitioner did not submit any evidence to corroborate and substantiate that the person who declared and affirmed that the "Personal Declaration" had been read to the Petitioner in Spanish prior to signing, had signed the document in error and that her affirmation of that document was not true or correct. As such, the Director properly concluded that the Petitioner's accounts of the incident did not demonstrate that credible and reliable information was provided establishing that she had knowledge of the details concerning the qualifying criminal activity.

B. Credible and Reliable Information

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 P. Singh, Attorney*, 26 I&N Dec. 623, 624 (BIA 2015) (citing *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) ("[I]f a reviewing tribunal decides that the facts and evaluative judgments prescinding from them have been adequately confronted and correctly resolved by a trial judge or hearing officer, then the tribunal is free simply to adopt those findings" provided the tribunal's order reflects individualized attention to the case).

On appeal, the Petitioner, through counsel, contends that "the U visa narrative and the law enforcement certification [Supplement B], the police report and therapists [*sic*] report, are all internally, factually consistent." The Petitioner, through counsel, further states that the reference to a school and a church is not inconsistent as she picked up the child from school and then went to a park and sat on a bench, which was adjacent to the church. Counsel further contends that "the Declaration that discusses an incident at McDonald was obviously, clearly, and nearly comically, a clerical error. The variance between a burglary while working at McDonalds and the incident here that occurred outdoors is so 'apples and oranges' that it is not remotely reasonable to attribute it to anything but a scrivener's error." The Petitioner does not submit any additional evidence on appeal.

While we recognize the Petitioner's insistence that her first "Personal Declaration" was an error, the Petitioner has not submitted any evidence to demonstrate that the translator who signed the document, declaring and affirming that it was a true and correct translation of the declarant's statement, and that she read it to the Petitioner in Spanish and the Petitioner concurred that it was true and accurate, has acknowledged that it was an error. Moreover, the assertions of counsel are not evidence and must be supported by independent documentation. *See Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988) ("We note statements or assertions by counsel are not evidence"). The Applicant has not submitted a statement or other relevant evidence on appeal corroborative of her counsel's assertions. Finally, although the Director directly addressed this issue in her decision, the Petitioner has not submitted any documentation on appeal from the translator of her second declaration, a different individual, or from the paralegal she alleges mailed her the erroneous statement, instructed her to sign it without understanding of its contents, and described its signing as a mere "formality."

Considering the lack of corroborating evidence, we agree with the Director that the Petitioner has not demonstrated that she possesses credible and reliable information establishing her knowledge of the details concerning the qualifying criminal activity upon which the petition is based, pursuant to 8 C.F.R. § 214.14(b)(2). Accordingly, the Petitioner is ineligible for U nonimmigrant classification under section 101(a)(15)(U)(i) of the Act.

ORDER: The appeal is dismissed.