



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

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

In Re: 20487498

Date: FEB. 9, 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 petition, concluding that the Petitioner did not demonstrate that he was helpful in the investigation or prosecution of qualifying criminal activity. On appeal, the Petitioner submits a brief and asserts his 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, a U petitioner must demonstrate, in pertinent part, that he or she “has been helpful, is being helpful, or is likely to be helpful” to a law enforcement agency in the investigation or prosecution of qualifying criminal activity. Section 101(a)(15)(U)(i) of the Act. 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). 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).

A petitioner bears the burden of proof 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, 375 (AAO 2010). Although a U petitioner may submit additional evidence along with the Supplement B, we determine, in our sole discretion, the credibility of and the weight to give all of 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 citizen of Mexico, filed his U petition in October 2015 as a victim of felonious assault based on an incident in [REDACTED] 2013. With his U petition, the Petitioner submitted a Supplement B signed in September 2015 by the Chief of Police (certifying official) in the [REDACTED] Pennsylvania Police Department (certifying agency). In response to Part 4.2, regarding whether the Petitioner had been, was being, or was likely to be helpful in the investigation or prosecution of the criminal activity, the certifying official indicated “Yes.” In response to Part 4.3, regarding whether the Petitioner refused or failed to provide assistance reasonably requested, the certifying official indicated “No.” In the narrative portion of the Supplement B, which requested additional information about the Petitioner’s helpfulness, the certifying official stated that the Petitioner “assisted police by reporting the crime and providing a description of the suspects.”

In the record before the Director, the Petitioner also submitted a [REDACTED] Police Department – Incident Report Form (incident report). According to the incident report, the Petitioner was approached by two individuals, one of whom held a handgun to the Petitioner’s head while the other went through his pockets taking his cell phone and cash. The individual with the handgun then struck the victim in the head with the gun and both individuals fled. In the section entitled “Disposition” on page one of the incident report, it states “uncooperative victim, or no re.” In addition, on page three of the incident report, it states “[REDACTED] 2013 unable to contact victim on [REDACTED] 2013 a contact letter was mailed” and “[REDACTED] 2013 no response from victim, case closed due to victim not helping with the investigation.”

In August 2020, the Director issued a request for evidence (RFE) noting the Petitioner’s lack of assistance in the investigation of the criminal activity as indicated in the incident report. The Director specifically requested that the Petitioner submit “a statement from a certifying official indicating whether [he] has been, [is] being[,] or [is] likely to be helpful to the investigation or prosecution of the cited criminal activity.” In addition, the Director asked the Petitioner to “provide a statement from the [REDACTED] Police Department explaining why they claim [he was] uncooperative and the investigation was closed due to [his] not being helpful with the investigation.” When the Petitioner submitted his response to the RFE in December 2020, he did not include the requested statements from the certifying official or the [REDACTED] Police Department with details regarding helpfulness. Instead, the Petitioner provided a statement asserting that he has not refused to cooperate in this case. In his statement, he explained that he did not receive a phone call from police. He further explained that the phone number on the police report does not belong to him, and he believes it is the phone number of a woman that helped him after the crime occurred. In addition, the Petitioner explained that he does not recall receiving a letter from the police and that, if he had received a letter in the English language, he would not have known what it said because of a language barrier.

In denying the U petition, the Director determined that the Petitioner did not submit sufficient information to show that he was helpful in the investigation or prosecution of qualifying criminal activity because the incident report indicated that he was uncooperative in the criminal investigation. The Director highlighted that, although asked to provide a clarifying statement from the certifying official explaining in more detail how he had been, was being, or was likely to be helpful to the

certifying agency in the investigation or prosecution of qualifying criminal activity of which he was a victim, and a statement from the [ ] Police Department explaining why they claim he was uncooperative, the Petitioner did not provide the requested evidence.

## B. Helpfulness

The Petitioner asserts on appeal, through counsel, that the Director erred in finding him unhelpful because the original Supplement B submitted with his U petition was signed by a certifying official, attested to his helpfulness, and was dated after the incident report. The Petitioner claims that the Supplement B should have been given more weight than the incident report because if the [ ] Police Department believed that [the Petitioner] was unhelpful or uncooperative, and they are in the best suited position to make that judgement, they would have either (1) marked those boxes as such on the Supplement B or (2) refused to sign the certification altogether.” The Petitioner further asserts that he was not able to obtain the letter requested in the Director’s RFE in time, and therefore, he responded with a detailed explanation of what occurred after the incident report.

As stated above, a U petitioner must demonstrate that he or she “has been helpful, is being helpful, or is likely to be helpful” to a law enforcement agency in the investigation or prosecution of qualifying criminal activity. Section 101(a)(15)(U)(i) of the Act. The regulations impose an ongoing requirement to demonstrate that, since initiating cooperation, the U petitioner “has not refused or failed to provide information and assistance reasonably requested.” 8 C.F.R. § 212.14(b)(3). We acknowledge that, in the present case, the Petitioner submitted a Supplement B whereby the certifying official indicated that he was helpful in the investigation or prosecution of qualifying criminal activity and did not refuse or otherwise fail to provide assistance reasonably requested. However, as highlighted by the Director, this certification is inconsistent with remaining evidence in the record, which reflects that the Petitioner was uncooperative with the criminal investigation, and therefore, the case was closed. As summarized above, the incident report documents law enforcement attempting to contact the Petitioner by both phone and his physical mailing address for his assistance in the investigation and receiving no response.

Although provided with multiple opportunities to sufficiently explain or otherwise rectify this inconsistency, the Petitioner has not done so. As stated above, the Petitioner did not provide the specific evidence requested by the Director from the certifying official or the [ ] Police Department to adequately address the contents in the incident report indicating that his case was closed due to lack of response. Moreover, the Petitioner did not supplement the record on appeal with the same or otherwise establish that he attempted to procure the evidence but was not able to. Although, in his statement submitted in response to the Director’s RFE, he asserts that the phone number listed on the police report was not his and he would not have understood an English language letter had he received one, it remains his burden to demonstrate eligibility by a preponderance of the evidence, including his helpfulness to law enforcement in the investigation or prosecution of qualifying criminal activity. Section 291 of the Act; 8 C.F.R. § 214.14(c)(4); *Matter of Chawathe*, 25 I&N Dec. at 375. The Petitioner does not indicate that he contacted the police to have his phone number corrected or otherwise took any steps to ensure he would receive any requests for assistance from them. As such, the record on appeal is not sufficient to overcome the Director’s determination and show that the Petitioner has been helpful to the certifying agency with respect to the crime in the [ ] 2013 report, as it does not sufficiently resolve the inconsistency in the record indicating that he refused or

failed to provide assistance reasonably requested after initiating cooperation, as required by 8 C.F.R. § 214.14(b)(3).

#### IV. CONCLUSION

The Petitioner has not met his burden of showing that he has been, is being, or is likely to be helpful to the certifying agency in the investigation or prosecution of qualifying criminal activity.

**ORDER:** The appeal is dismissed.