



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

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

In Re: 19641162

Date: FEB. 10, 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), as a victim of qualifying criminal activity. The Director of the Nebraska Service Center denied the Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that the Petitioner did not establish that she was the victim of a qualifying crime. The matter is now before us on appeal. On appeal, the Petitioner submits additional evidence and asserts that she was the victim of qualifying criminal activity and has established 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 to the Director for the issuance of a new 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 burden of proof is on petitioners 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).

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. 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

The Petitioner filed her U petition in December 2015 with a Supplement B signed and certified by a captain with the [redacted] Georgia, Police Department (certifying official), based upon a [redacted] 2014 incident involving the Petitioner, her spouse, and their children. In response to Part 3.1 of the Supplement B, which provides check boxes corresponding to the 28 qualifying crimes listed in section 101(a)(15)(U)(iii) of the Act, the certifying official indicated that the Petitioner was the victim of criminal activity involving or similar to “Domestic Violence.” In response to Part 3.3, which requests the specific statutory citations for the criminal activity investigated or prosecuted as perpetrated against the Petitioner, the certifying official listed “Domestic Violence” and “Theft by Deception,”<sup>1</sup> but did not indicate the specific statutes. When asked to describe the criminal activity being investigated and any known or documented injuries to the Petitioner, the Supplement B does not provide further details.

The attached police report from the [redacted] Police Department submitted with the Petitioner’s U petition describes the incident type as a verbal argument. The narrative portion of the report provides further detail about the incident including that the Petitioner, her spouse, and their children were at a party when the Petitioner’s spouse became mad at the Petitioner, pulled out a pocketknife, and threatened her and three other children at the party. The Petitioner and their two daughters stayed at a hotel that night because the Petitioner’s spouse was drunk and threatening, and they returned home the next day. The Petitioner’s spouse returned home later that evening, began drinking alcohol, was angry at the Petitioner for staying at the hotel, and chased her around the living room. The Petitioner was able to get out of the apartment and her daughter called the police. The police report states that the officer spoke with both daughters and the Petitioner, and her spouse agreed to leave the residence and was transported to his brother’s house. The report indicates no arrest was made due to conflicting statements and no probable cause for arrest.

After reviewing the evidence in the record, the Director issued a request for evidence (RFE), providing the Petitioner an opportunity to submit, among other things, a Supplement B that lists the statutory provisions being investigated, a victim statement, and additional evidence to demonstrate that she was the victim of qualifying criminal activity. The Petitioner’s response to the RFE included another Supplement B, which again indicated that the Petitioner was the victim of criminal activity involving or similar to “Domestic Violence” and listed “Domestic Violence” and “Theft by Deception” without providing the specific statutes corresponding to those crimes.

The Director subsequently denied the U petition, concluding that the Petitioner did not establish, as required, that she was the victim of qualifying criminal activity. In the decision, the Director stated,

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<sup>1</sup> “Theft by Deception” refers to an unrelated incident in 2010.

among other things, that the certifying official did not provide the specific statutory citations for the criminal activity investigated or prosecuted as perpetrated against the Petitioner; the submitted police report indicates a verbal argument was detected, investigated, or prosecuted; and the record as a whole does not show that the qualifying criminal activity of domestic violence was actually detected, investigated, or prosecuted.

On appeal, the Petitioner contends that she was the victim of domestic violence and submits new evidence to support her contention. The Petitioner also states that she previously filed the U petition and responded to the RFE without the benefit of counsel and was not able to adequately explain to the certifying official the clarification on the Supplement B that USCIS required. The additional evidence includes the Petitioner's victim statement and an updated Supplement B that includes the specific statutory citation of simple assault family violence under section 16-5-20 of the Georgia Code Annotated for the criminal activity that was investigated or prosecuted as perpetrated against the Petitioner and contains a description of the criminal activity that was investigated. The certifying official also states in Part 4.4 that the incident described in all three Supplements B is domestic violence under Georgia law, he signed the Supplements B because he believes the Petitioner is a victim of domestic violence, and it is clear from the narrative of the police report that the officer investigated simple assault family violence.

Because the new evidence submitted on appeal is material to the Director's ground for denial, we will remand the matter for the Director to consider the evidence in the first instance and redetermine whether the Petitioner has met her burden of establishing that she is a victim of a qualifying criminal activity and has otherwise satisfied the remaining eligibility criteria for U nonimmigrant status.

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