



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

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

In Re: 20170396

Date: FEB. 11, 2022

Appeal of Nebraska 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 at 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 Nebraska Service Center Director denied the Petitioner’s Form I-918, Petition for U Nonimmigrant Status (U petition). The denial of the Petitioner’s U petition is now before us on appeal. A 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 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter *de novo*. See *Matter of Christo’s Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

The Petitioner filed their U petition in June of 2015. The U petition was accompanied by a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B) in which the certifying official checked the box under Part 3.1 indicating that the Petitioner was the victim of criminal activity involving or similar to felonious assault. Under Part 3.3, the official identified the statutory citation for the criminal activity being investigated or prosecuted as section 943.10(1)(A) of the Wisconsin Statutes Annotated (burglary). Within the narrative portion characterizing the criminal activity, the official indicates that the Petitioner was visiting her sibling’s home when they heard several individuals burglarizing the home, at which point she and her family members hid in the house until the burglars were no longer in the residence. The record also contains a police report that largely mirrors the information in the Supplement B and reflects that the Petitioner hid in the basement and that the perpetrators were only present on the floors above the basement during the incident. Within the Petitioner’s personal statement, she added that she was the victim of an assault because she was placed in fear of her safety during the crime.

The Director denied the U petition, concluding that the Petitioner did not establish that she was the victim of qualifying criminal activity. The Director noted that burglary is not a qualifying crime and determined that the Petitioner had not established that the nature and elements of burglary under Wisconsin law are substantially similar to a qualifying criminal activity. On appeal, the Petitioner argues the Director erred in determining she was not the victim of a felony-level burglary and an assault. The Petitioner also argues that Wisconsin law states that “‘personal injury’ means actual bodily harm and includes . . . mental or psychological trauma.” See Wis. Stat. Ann. § 949.01(5). She attributes her “substantial mental and psychological trauma” to her experience during the burglary.

Upon consideration of the entire record, including the evidence submitted and arguments made on appeal, we adopt and affirm the Director's ultimate determination with the comments below. *See Matter of P. Singh, Attorney*, 26 I&N Dec. 623 (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). We adopt the Director’s conclusion that the Petitioner has not established she was the victim of qualifying criminal activity. Because the identified basis for the U petition’s denial is dispositive of this appeal, we decline to reach and hereby reserve the Petitioner’s remaining appellate arguments. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *see also Matter of M-F-O-*, 28 I&N Dec. 408, 417 n.14 (BIA 2021) (declining to reach alternative issues on appeal where a filing party is otherwise ineligible).

We note that although the certifying official checked a box within Part 3.1 indicating that the Petitioner was the victim of criminal activity involving or similar to felonious assault, a certifying official’s completion of Part 3.1 is not conclusory evidence that a petitioner is the victim of qualifying criminal activity. Part 3.1 of the Supplement B identifies the general categories of criminal activity to which the offenses in Part 3.3 may relate. *See Interim Rule, New Classification for Victims of Criminal Activity: Eligibility for “U” Nonimmigrant Status*, 72 Fed. Reg. 53014, 53018 (Sept. 17, 2007) (specifying that the statutory list of qualifying criminal activities represent general categories of crimes and not specific statutory violations). The record also contains a report from the [redacted] Police Department that lists the incident as a residential burglary, cites to the same Wisconsin statute as the Supplement B, and describes the event in similar terms as the Supplement B form. Here, the Supplement B, when read as a whole and in conjunction with other evidence in the record, does not establish that law enforcement actually detected, investigated, or prosecuted the qualifying crime of felonious assault as perpetrated against the Petitioner.

Further, Wisconsin law defines a burglary in part as one who “intentionally enters any [any building or dwelling] without the consent of the person in lawful possession and with intent to steal or commit a felony in such place is guilty of a Class F felony . . . .” Wis. Stat. Ann. § 943.10. Although the Petitioner claims she was a victim of an assault, neither the Supplement B nor the police report support this assertion. Also, the Petitioner defines “personal injury” under Wisconsin law that refers to awards for the victims of crimes, but she does not explain its relevance in the context of the crime of burglary that was detected, investigated, or prosecuted by law enforcement, nor does she associate the phrase with the assault that she alleges occurred during the burglary.

The U-1 classification has four separate and distinct statutory eligibility criteria, each of which is dependent upon a showing that a petitioner is a victim of qualifying criminal activity. As the Petitioner has not established that she was the victim of qualifying criminal activity, or an offense that is substantially similar to a qualifying criminal activity, she necessarily cannot satisfy the criteria at section 101(a)(15)(U)(i) of the Act.

The record shows that the Petitioner was the unfortunate victim of felony-level burglary, but this offense is not, does not involve, and is not substantially similar to any qualifying crime at section 101(a)(15)(U)(iii) of the Act. The Petitioner is consequently ineligible for U nonimmigrant classification under section 101(a)(15)(U) of the Act.

**ORDER:** The appeal is dismissed.