



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

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

In Re: 19749307

Date: FEB. 14, 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). The matter is now before us on appeal. On appeal, the Petitioner asserts her eligibility for U nonimmigrant status and submits additional evidence. 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.

## I. LAW

The U-1 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 prosecution of the crime. Section 101(a)(15)(U)(i) of the Act. To meet this requirement, U petitioners must demonstrate that, since initiating cooperation, they have “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).

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. Section 291 of the Act, 18 U.S.C. § 1361; 8 C.F.R. § 214.14(c)(4); *Matter of Chawathe*, 25 &N Dec. 369, 375 AAO 2010). Although a petitioner may submit any relevant, credible evidence for us 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

### A. Procedural and Factual History

The Petitioner filed her U petition in 2015 based on a 2012 domestic violence incident in which her now former spouse threatened and assaulted her.<sup>1</sup> With her U petition, the Petitioner submitted a Supplement B signed and certified by a detective with the [redacted] Police Department in [redacted] California (certifying official). In the narrative portion of the Supplement B, the certifying official explained that the Petitioner had called the police after she was physically assaulted and provided a statement. In response to Part 4.2 of the Supplement B, which asks 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 responded “No.” In response to Part 4.4 of the Supplement B, which asks whether the Petitioner had unreasonably refused to provide assistance in the investigation or prosecution of the criminal activity, the certifying official responded “No.” The certifying official further stated that after calling the police and providing a statement, the Petitioner then told reporting officers that she did not want a crime report taken. The official also indicated that the Petitioner “was not responsive” when the investigating detective attempted to contact her and that the City Attorney’s office subsequently declined prosecution. The police investigative report of the incident attached to the Supplement B stated that the spouse grabbed the Petitioner by the arms, shook her, and threatened to hit her following a verbal altercation. The report also indicated that the Petitioner refused to make a report and simply wanted her spouse to leave, which he agreed to do. The report also reflected that the Petitioner was provided a domestic violence pamphlet with instructions on how to obtain a restraining order.

In her initial written statement below, the Petitioner asserted that her spouse threatened, mistreated, humiliated, and isolated her during their relationship. The statement indicated that one day, he forced her to have sex with him and threatened to report her and her children from a previous relationship to immigration authorities if she did not obey him. She stated that she was very afraid of him, felt nervous, and did not know what to do. The Petitioner stated that she called the police so they would see what was going on. She submitted an additional statement in response to a request for evidence (RFE) from the Director reiterating the same claims. In support of her U petition, the Petitioner also submitted records of her spouse’s past arrests for battery, inflicting corporal injury on a spouse/cohabitant, and alcohol-related offenses.

Additionally, the Petitioner submitted a joint statement from two witnesses, including her son, affirming that the Petitioner was afraid of her spouse and that he used to abuse the Petitioner and threaten to call immigration authorities to have her and her children deported if she called the police. The witnesses also indicated that the spouse habitually threatened to call immigration authorities if the witnesses spoke about “the things that happened”. The statement further indicated that the Petitioner became “tired” of all the altercations with her spouse and called the police, who “saw everything,” made a report, and took “away” the Petitioner’s spouse “and since then [their] nightmare”. The Petitioner submitted a second near identical statement from her son and a different individual in response to an RFE.

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<sup>1</sup> The Director’s decision incorrectly notes this incident as taking place in December 2012, which we consider a harmless error.

The Director denied the U petition, concluding that the Petitioner had not demonstrated that her helpfulness in the investigation or prosecution of qualifying criminal activity perpetrated against her. The Director observed that Petitioner had submitted records about her spouse's criminal history, but these did not include evidence of investigation or prosecution for the 2012 incident described in the Supplement B for her U petition.

#### B. The Petitioner's Helpfulness in the Investigation or Prosecution of Qualifying Criminal Activity

To meet her burden to establish eligibility for U nonimmigrant status, the statute and implementing regulations expressly require that the Petitioner submit a Supplement B from a law enforcement official certifying that she "has been helpful, is being helpful, or is likely to be helpful" in the investigation or prosecution of qualifying criminal activity. Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i). Further, 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).

Our review of the record does not indicate that the Petitioner has met her burden in this regard. Although the Petitioner initially called law enforcement and reported the criminal activity committed against her, the certifying official specifically indicated on the Supplement B that the Petitioner had not been, was not being, or was not likely to be helpful in the investigation and/or prosecution of the reported crime, according to the response at Part 4.2. *See* 8 C.F.R. § 214.14(c)(4)(USCIS determines, in its sole discretion, the evidentiary value of all evidence, including the Supplement B). The investigative report for the criminal incident also shows that after giving her statement, the Petitioner "refused any reports and just wanted [her spouse] to leave," which he then did, and consistent with the Petitioner's stated wishes, the report indicates that her spouse agreed to leave. The narrative portion of the Supplement B addressing the Petitioner's helpfulness also indicates that the investigating detective on the case attempted to contact the Petitioner regarding the investigation and that she was not responsive. Additionally, although the investigative report reflects that the reporting officers provided her with a domestic violence pamphlet and instructions on how to obtain a restraining order, there is no indication in the record that the Petitioner sought a restraining order or later responded to the detective on the case.

The Petitioner concedes in a written statement on appeal that the Supplement B states that she was not responsive to law enforcement and that she did not want a crime report to be taken after she summoned the police. The Petitioner asserts that this was because she was fearful of retaliation by her former spouse who had previously threatened to report her to immigration and warned her that he would come back and kill her if she called the police, which deterred her from doing so for a long time. However, the record reflects that the Petitioner ultimately called the police on the date of the 2012 criminal activity despite this fear. Apart from her general assertion that she feared retaliation and references to past threats and abuse, she does not claim that her former spouse actually retaliated against her for calling the police, and she provides no further probative information regarding any specific actions, threats, or statements by her former spouse that prevented her from filing an actual police report or

responding to the investigating detective’s attempts to contact her about the case.<sup>2</sup> Moreover, although she also asserts on appeal that she assisted law enforcement by reporting her former spouse who was then deterred by his “arrest,” the record indicates that she “refused” to make a report against her spouse and that he “agreed to leave” per her wishes. As stated, there is no indication that he was arrested. Lastly, although the Petitioner claims that the police could have recommended prosecution regardless of whether she made a report, at issue here is whether the Petitioner has demonstrated her helpfulness to law enforcement in the investigation or prosecution of the criminal activity committed against her. Here, the preponderance of the evidence, including the Supplement B, the police report, and the Petitioner’s and others’ statements in the record, does not establish that she has satisfied this statutory requirement.

While we acknowledge the Petitioner’s fears following her experience of domestic violence and the psychological and physical harm she experienced at the hands of her former spouse, she is nevertheless required to establish that she meets the helpfulness requirement by a preponderance of the evidence. *See United States v. Nixon*, 418 U.S. 683, 695-96 (1974) (holding that both governing statutes and their implementing regulations hold “the force of law” and must be adhered to by government officials). Here, as the Supplement B and other evidence in the record, does not establish the Petitioner’s helpfulness, she has not met her burden of establishing eligibility for U-1 classification under section 101(a)(15)(U) of the Act. Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i).

### III. CONCLUSION

The Petitioner has not demonstrated, as required, that she was helpful, is being helpful, or is likely to be helpful to law enforcement officials in the investigation or prosecution of qualifying criminal activity. The Petitioner therefore cannot establish eligibility for U nonimmigrant classification under section 101(a)(15)(U) of the Act.

**ORDER:** The appeal is dismissed.

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<sup>2</sup> The Director issued an RFE in August 2019 informing the Petitioner that she could provide a statement from the certifying official indicating her helpfulness to the investigation or prosecution of the cited criminal activity, or in the alternative, a newly issued certification demonstrating the same. The Director issued a second RFE in October 2020 requesting the same evidence. The record on appeal does not contain such evidence from the certifying agency.