



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

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

In Re: 20738524

Date: MAR. 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). The Director of the Nebraska 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 submits a brief arguing that he has established eligibility for U-1 nonimmigrant classification. 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 remand the matter to the Director for further proceedings.

## I. LAW

To establish eligibility for U-1 nonimmigrant classification, a petitioner must show that they, *inter alia*, have suffered substantial physical or mental abuse as a result of having been the victim of qualifying criminal activity. Section 101(a)(15)(U)(i) of the Act; 8 C.F.R. § 214.14(b)(1). The burden of proof is on the 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, 375 (AAO 2010). 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 such evidence. 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 his U petition in April 2016 based on an incident that took place in [REDACTED] 2014 when he was 15 years old. The Petitioner also submitted a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), signed and certified by an Assistant State’s Attorney with the State’s Attorney for [REDACTED] in [REDACTED] Maryland. In part 3.1, the certifying official checked a box indicating that the Petitioner was the victim of criminal activity involving or similar to “Other: Robbery,” and did not identify a specific statutory citation for

the criminal activity investigated or prosecuted as perpetrated against the Petitioner in part 3.3. When asked to provide a description of the criminal activity being investigated or prosecuted in part 3.5, the certifying official indicated that the Petitioner was a victim of robbery at knifepoint. When asked to provide a description of any known or documented injury to the Petitioner in part 3.6, the certifying official indicated that the Petitioner had been chased by perpetrators with intent to do harm, was pushed from a bicycle, and had symptoms of post-traumatic stress disorder (PTSD).

The crime report accompanying the Supplement B set forth an account consistent with the description of the incident in the Supplement B. The report stated that there were four suspects who approached the Petitioner and another minor while they were riding their bicycles on a trail. Two of the suspects pushed the other individual from his bicycle and one suspect brandished a 12-inch knife and demanded all of the Petitioner's possessions. The report also indicated that the suspects took the Petitioner's bicycle and his cell phone. The Petitioner and the other victim identified the suspects who were apprehended. With the U petition, the Petitioner submitted letters from the Maryland Department of Juvenile Services addressed to the Petitioner and his parents indicating that the following criminal charges had been forwarded to the Office of the State's Attorney for prosecution of the perpetrators of the criminal activity against the Petitioner: robbery with a deadly weapon, assault first degree, assault second degree / battery, and theft misdemeanor – under \$1000. The record also included letters from the certifying agency stating that a prosecutor had been assigned to prosecute three of the perpetrators.

The Petitioner submitted an affidavit with his U petition in which he stated that he came to the United States from El Salvador because he was trying to escape a gang attempting to harm his family. In describing the incident giving rise to his U petition, he stated that he and his cousin were pushed from their bicycles and held at knifepoint by four people who demanded his property. He stated that the experience was terrifying and that he thought he was going to die, so he gave the people his bicycle and everything he was carrying. The Petitioner asserted that the incident left him traumatized, and he had a hard time coping and wanted help to deal with his nerves, and so he sought services from the [redacted] Maryland Department of Health and Human Services. He also submitted a 2015 psychological evaluation from a licensed clinical professional counselor summarizing the assistance and treatment he received. This document indicated that the Petitioner, who became a client of a victim assistance program two months after the crime, had symptoms of PTSD and reported recurrent, intrusive thoughts and nightmares, difficulties falling asleep, poor concentration, hyper-alertness, and heightened startle response. The Petitioner described experiencing fear and nervousness when going out or when something reminded him of the crime, and he indicated that his fear was accompanied by physiological reactions, including sweaty hands and palpitations so strong that he could feel them in his ears. The Petitioner also reported at the time that he had stopped going to the park or to the field to play soccer. According to the summary, the Petitioner's symptoms were "moderate to high" symptoms at the beginning of his treatment, but after five counseling sessions, he reported no such symptoms and the treatment was concluded.

In response to a request for evidence (RFE) issued by the Director, the Petitioner submitted an additional personal statement with additional details about the criminal incident and its effect on his life, over six years after the incident. He indicated that the men who robbed him threw his cousin to the ground, grabbed the Petitioner, and held "an extremely large knife the length of a machete" to his back. He stated that the men had weapons, while he had nothing and no way of stopping them if they chose to end his life. The men yelled at the Petitioner in English, which the Petitioner did not

understand at the time. The Petitioner stated that the experience was awful, and he had been so afraid. He described going to court when the men were prosecuted and reliving the events of the day, which reminded him of the fear and helplessness he felt. He asserted that the men saw him in court, and he was terrified that his participation in the prosecution would result in retaliation from them.

The Petitioner contended that the crime continued to affect his mental health, job performance, social life, and relationships with his family. While he acknowledged the passage of time since the crime, he asserted that he lived in constant fear that he would be attacked again. He has never returned to the location of the crime and avoids groups of “guys,” as well as situations that reminded him of the incident such as parks. He had also previously enjoyed playing soccer, but now found it to have “too many people and things going on” which would prevent him from being aware of his surroundings. He stated that he no longer left the house by himself nor rode his bicycle without another person. Prior to the attack, he had been more social, but he no longer liked to go places with his cousins and friends because he would feel too hyper-alert and nervous that he would be attacked again. He asserted that he had flashbacks and difficulty focusing at his construction job, which led to his making mistakes with measurements, as well as trouble sleeping which had improved over time.

With the RFE response, the Petitioner also submitted a second psychological evaluation by a different provider which indicated that the Petitioner was experiencing “clinically significant distress”. According to the evaluation, his PTSD symptoms were most intense and more extreme during the first year and a half after the assault, and while they had improved over time, he continued to experience them, specifically in the areas of social interactions, home environment, and mental health. The evaluation also indicates that the Petitioner reported fearing for his life since the assault and described the ongoing, adverse impacts of the assault on his life, consistent with his account set forth in his RFE statement before the Director. Additionally, the symptoms he reported included flashbacks, loss of pleasure, changes in sleep, concentration problems, and heightened alertness. The assessment noted that the Petitioner wished to resume therapy, which he described as helpful in the past, in order to be able to “handle [his] fears and go back to a normal state of mind” and increase his social interactions as he isolates from his friends. The evaluation concluded that the Petitioner’s symptoms were sufficient to meet the criteria for PTSD currently.

After considering the evidence in the record, the Director denied the U petition. At the outset, the Director noted that the assault forming the basis for the U petition was a single occurrence of short duration that did not require emergency room care and did not result in any lasting physical effects. The Director also noted that after the conclusion of his five counseling sessions shortly after the crime, the Petitioner reported no crime-related symptoms except for mild fear when something reminded him of the traumatic experience. Regarding the second psychological evaluation, the Director stated that it indicated that the Petitioner had a job he liked, good relationships with his friends, had dated his current girlfriend for five years, and reported no stressors or problems. The Director determined that the Petitioner had not provided sufficient evidence that the mental health issues stemming from his robbery had significantly affected his daily life. The Director therefore concluded that the Petitioner did not establish that he suffered substantial physical or mental abuse.

On appeal, the Petitioner argues that he suffered substantial mental abuse as a result of having been the victim of qualifying criminal activity.

## B. The Petitioner Suffered Substantial Physical and Mental Abuse as a Result of the Qualifying Criminal Activity

The Act and regulations provide that a petitioner is eligible for U-1 nonimmigrant status if he demonstrates, *inter alia*, that he has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity. Section 101(a)(15)(U)(i)(I) of the Act; 8 C.F.R. § 214.14(b)(1). The regulation at 8 C.F.R. § 214.14(a)(8) defines “physical or mental abuse” as “injury or harm to the victim's physical person, or harm to or impairment of the emotional or psychological soundness of the victim.” A determination of whether a petitioner has suffered abuse that is considered “substantial” is based on a number of factors, including but not limited to:

The nature of the injury inflicted or suffered; the severity of the perpetrator’s conduct; the severity of the harm suffered; the duration of the infliction of the harm; and the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim, including aggravation of pre-existing conditions. No single factor is a prerequisite to establish that the abuse suffered was substantial. Also, the existence of one or more of the factors automatically does not create a presumption that the abuse suffered was substantial. A series of acts taken together may be considered to constitute substantial physical or mental abuse even where no single act alone rises to that level[.]

8 C.F.R. § 214.14(b)(1). As discussed above, the Director determined that the Petitioner did not establish that he suffered substantial physical or mental abuse as a result of the certified criminal activity. We withdraw this determination.

At the outset, and contrary to the Director’s determination, the evidence in the record and outlined above establishes that the Petitioner has endured lasting psychological effects from the assault forming the basis for the U petition. As argued on appeal, the fact that the Petitioner has a job and a romantic relationship does not preclude or otherwise negate the evidence of the substantial mental abuse he suffered as a result of the 2014 assault. The Petitioner, along with his cousin, was grabbed, threatened at knifepoint, and robbed at the age of 15. The record reflects that there were multiple perpetrators involved in the incident, and the Petitioner expressed that he feared for his life during the incident. Given the Petitioner’s minor age, the multiple perpetrators involved in the assault against him, and the use of the knife during the assault, the record sufficiently demonstrates that the perpetrators’ criminal conduct were particularly severe. The record further shows that following the assault, he suffered serious psychological harm, particularly during the first year and half after the assault, which caused him to have nightmares, trouble sleeping, difficulty concentrating at school, and constant fear that someone would approach or attack him the same way his perpetrators did. The Petitioner also asserted that he participated in the prosecution of his perpetrators, which exacerbated his continued fears. He has been diagnosed with PTSD by two mental health providers over the course of approximately six years, stemming from the trauma of the assault. Although we acknowledge the documented decrease in severity of some of his symptoms over time, the statements by the Petitioner and psychological evaluations detail the extent to which his victimization has continued to impact his daily life since the incident, and the most recent 2021 evaluation indicates that he currently meets the diagnosis for PTSD based on the symptoms he continues to experience as a result of the 2014 assault. The record reflects that the Petitioner continues to experience feelings of fear when leaving his home and flashbacks when

in unfamiliar settings or those resembling the environment of the crime, and the second psychological evaluation also documented his difficulty focusing, which the Petitioner stated impacted his job performance, further evidencing the serious and lasting nature of the harm he suffers as a result of the assault. Considering the foregoing, the Petitioner has established by a preponderance of the evidence that he suffered and continues to suffer substantial mental abuse as a result of qualifying criminal activity. Section 101(a)(15)(U)(i)(I) of the Act; 8 C.F.R. § 214.14(b)(1). The Director's determination to the contrary is withdrawn.

### III. CONCLUSION

The Petitioner has overcome the Director's sole ground for denying his U petition. Therefore, we will remand the matter to the Director for consideration of whether the Petitioner has met the remaining eligibility requirements for U nonimmigrant classification under section 101(a)(15)(U)(i) of the Act.

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