



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

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

In Re: 22567733

Date: NOV. 18, 2022

Appeal of Nebraska Service Center Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks U 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 Petitioner's Form I-918, Petition for U Nonimmigrant Status, concluding that the record did not establish that the Petitioner suffered substantial physical or mental abuse, or that she had been helpful to law enforcement in the investigation or prosecution of qualifying criminal activity. The Director subsequently granted a motion to reopen, but again denied the Petitioner's Form I-918 finding that while the Petitioner had established that she suffered substantial physical or mental abuse as a result of qualifying criminal activity, she still did not establish the requisite helpfulness. The matter is now before us on appeal. Upon *de novo* review, we will sustain the appeal.

I. LAW

To establish eligibility for U nonimmigrant classification, petitioners must establish that they were a victim of qualifying criminal activity that was detected, investigated, or prosecuted by law enforcement. Section 101(a)(15)(U)(i) of the Act; 8 C.F.R. § 214.14(a)(5). Petitioners must also establish that they have been helpful, are being helpful, or are likely to be helpful to the law enforcement authorities detecting, investigating, or prosecuting the qualifying criminal activity. Section 101(a)(15)(U)(i)(III) of the Act. The helpfulness 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. § 214.14(b)(3). The burden of proof is on a 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, 376 (AAO 2010).

II. ANALYSIS

The Petitioner filed her Form I-918 in April 2016 with a Supplement B, U Nonimmigrant Status Certification (Supplement B) signed and certified by a sergeant within the Police Department (certifying official). In part 4 of the 2015 Supplement B, the certifying official checked three boxes indicating that the Petitioner had been, was being, or was likely to be helpful in the investigation or prosecution of the criminal activity cited in the form; that she had not been requested

to provide further assistance; and that she had not refused to provide assistance. When asked to provide an explanation for the answers reflected in the checked boxes, the certifying official added, in part, that the Petitioner had been cooperative with officers.

The Petitioner also submitted a copy of a police report completed in 2015 regarding an incident of domestic violence that took place approximately one and a half years earlier in 2014. The police report reflects that when the Petitioner filed the police report, she gave the police her husband's name, phone number, and the general vicinity in which he worked. The report further indicates that the police tried to contact the Petitioner's husband several times and conducted a local records check but were unable to contact him. The police report, however, also indicates that the Petitioner did not support prosecution for the criminal activity in 2014 and in one section titled "Case Solvability" the report contains the notes "No Prosecution Desired," "Victim Cooperative," and "Victim Refuses to Prosecute." Despite the Petitioner's lack of support for prosecution, the police report shows that it was forwarded to "Investigations" for review.

The Director issued a request for evidence stating, in pertinent part, that while it appeared the Petitioner had been helpful at the outset of the investigation, she either stopped being helpful or had refused to provide assistance to law enforcement in the continuing investigation or prosecution. In response, the Petitioner submitted a second Supplement B (2021 Supplement B) signed and certified by a different certifying official (second certifying official). Similar to the 2015 Supplement B, the second certifying official checked boxes in part 4 of the 2021 Supplement B indicating that the Petitioner had been, was being, or was likely to be helpful in the investigation; and that since the initiation of cooperation had not refused or failed to provide assistance that was reasonably requested. When asked to provide an explanation for the answers reflected in the checked boxes, the second certifying official stated that the Petitioner had been helpful throughout the investigation and will continue to be cooperative with law enforcement.

The Director denied the Petitioner's Form I-918, concluding that the Petitioner did not establish she suffered substantial physical or mental abuse, or that she either had been or was likely to be helpful to law enforcement. In explaining the decision, the Director stated that "regulation does state that law enforcement must have the ability to proceed with an investigation and/or prosecution based on the victim's helpfulness" and concluded that the police did not appear to have the ability to proceed with an investigation because it had been over a year since the crime took place and the Petitioner did not desire prosecution. The Director further stated that the Petitioner's unwillingness to cooperate did not further the purpose of the U nonimmigrant visa.

The Petitioner filed a motion to reopen with the Director with additional evidence that included an updated declaration signed in October 2021, photos of injuries she sustained, and copies of the previously submitted 2015 and 2021 Supplements B. In her updated declaration the Petitioner claimed that she reported the abuse to the police and had not refused to cooperate, that she remained willing to cooperate, and that she had not refused to provide any information or assistance requested of her. The Petitioner referred to the police report to confirm that she was cooperative.

The Director granted the Petitioner's motion to reopen and determined that the Petitioner suffered substantial physical or mental abuse as a result of qualifying criminal activity but that she had not

overcome the grounds for denying the Form I-918 relying primarily on the police report that stated the Petitioner did not desire prosecution and refused to prosecute.

On appeal the Petitioner provides an updated declaration signed in March 2022, as well as a declaration from her brother, copies of notices and guidance from USCIS, and documents that were previously submitted. The Petitioner argues that she was helpful to law enforcement in detecting the qualifying criminal activity when she filed the police report, and that she has not refused to provide information or assistance that was reasonably requested of her. She emphasizes that the report was “forwarded to investigations for review” and claims that the progress of an investigation is outside the control of the Petitioner and instead rests solely with the state’s attorney.

Those seeking U nonimmigrant status may establish their helpfulness at different stages of the investigation or prosecution. *See* Section 101(a)(15)(U)(i)(III) of the Act (requiring a petitioner to establish she “has been helpful, is being helpful, or is likely to be helpful”). The record establishes that when the Petitioner contacted the [redacted] Police Department, she provided information about her husband that the police used to attempt to contact him. The record further shows that the police conducted local records checks on the Petitioner’s husband and then forwarded the case to “Investigations” for review. Even though the Petitioner may have indicated she did not “desire” prosecution, those actions, consistent with both the 2015 and 2021 Supplements B, reflect that the Petitioner was helpful in the investigation or prosecution of criminal activity. Finally, in the request for evidence, the Director concluded that the Petitioner appeared to be “helpful at the outset of the investigation.” Thus, the record establishes that the Petitioner had been helpful to law enforcement when she filed the police report.

As noted above, the Petitioner must also establish that since the initiation of cooperation she has not refused or failed to provide information and assistance reasonably requested of her. 8 C.F.R. § 214.14(b)(3). As discussed above, the record establishes that the Petitioner provided her husband’s name and phone number, and described the vicinity in which he worked, which the [redacted] Police Department used to conduct a preliminary investigation and forward for additional review. There is no indication in the record that the [redacted] Police Department or any other law enforcement authority requested additional information or assistance after forwarding the case. Specifically, the 2015 Supplement B states that no additional assistance was requested. Moreover, both of the supplements state that the Petitioner has not refused to provide assistance and the 2021 Supplement B specifically states that the Petitioner has been helpful throughout the investigation. Based on the foregoing, the record establishes that the Petitioner has not refused or failed to provide information or assistance after she initiated cooperation by filing the police report.

III. CONCLUSION

The Petitioner has established by a preponderance of the evidence that she has been helpful, is being helpful, or is likely to be helpful to law enforcement authorities and that since the initiation of cooperation has not refused or failed to provide information or assistance reasonably requested. Accordingly, we will withdraw the Director’s decision and remand the matter to the Director to

determine whether the Petitioner has satisfied the remaining eligibility requirements 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.