



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

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

In Re: 25072050

Date: APR. 18, 2023

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 Director dismissed a subsequent motion to reopen and motion to reconsider. The matter is now before us on appeal. On appeal, the Petitioner submits evidence previously in the record, new evidence, and a brief arguing that he has established eligibility for U-1 nonimmigrant classification. The Administrative Appeals Office (AAO) 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, 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 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, 375-76 (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).

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 that the petitioner possesses information concerning the qualifying criminal activity and has been, is being, or is likely

to be helpful in the investigation or prosecution of it.<sup>1</sup> 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. 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 October 2015 with a Supplement B signed and certified by a supervising deputy district attorney in the Office of the [REDACTED] District Attorney<sup>2</sup> in California (certifying official). The certifying official checked a box indicating that the Petitioner was the victim of criminal activity involving or similar to “Felonious Assault,” and cited to section 242 (battery) of the California Penal Code (Cal. Penal Code) as the specific statutory citation investigated or prosecuted as perpetrated against the Petitioner. When asked to provide a description of the criminal activity being investigated or prosecuted, the certifying official indicated that the “[v]ictim was stabbed multiple times by an assailant.” When asked to provide a description of any known or documented injury to the Petitioner, the certifying official indicated there were “[m]ultiple stab wounds. Victim transported to hospital for emergency care.” When asked to describe the Petitioner’s helpfulness, the certifying official indicated that “[t]he victim was helpful by providing information for a report.”

The Petitioner did not submit police reports, court records, or contemporaneous medical records concerning this incident with his U petition. However, among other things, the Petitioner submitted an affidavit in which he states that in September 1995, while living in [REDACTED] he visited his friend in [REDACTED] California. They both went to a convenience store at around 10:00 p.m. He states that after they paid for their items, they left the store and were attacked in the parking lot by two men. He alleges that he felt the knife strike his back, and his vision became blurry. The Petitioner states that he was stabbed about 7 to 8 times with a knife about 6 inches long. His friend called an ambulance, he was given an oxygen mask by the paramedics, and he was taken to the [REDACTED] Hospital where he stayed for about a week. The Petitioner claims that the wounds were close to his lungs, and he would not have survived if they were a few inches closer. He reports that he lost a lot of blood, and he has permanent scars. The Petitioner states that the police visited him the next day. He answered all their questions, described the suspects, gave his contact information to the police, and was not contacted by the police thereafter. Finally, the Petitioner states that he spent one month recuperating before going back to work.

The Director issued a request for evidence (RFE) in February 2020 and another in June 2020. In response to the February 2020 RFE, the Petitioner submitted an April 2020 assessment from a licensed professional counselor; birth certificates for himself and his U.S. citizen child; his statement; letters

---

<sup>1</sup> The Supplement B also provides factual information concerning the criminal activity, such as the specific violation of law that was investigated or prosecuted, and gives the certifying agency the opportunity to describe the crime, the victim’s helpfulness, and the victim’s injuries.

<sup>2</sup> We note the abbreviation because the official name of the certifying official is the [REDACTED] County District Attorney’s Office.

from his mother and his son; and criminal records concerning his 2003 theft conviction in [redacted] Kansas. In response to the June 2020 RFE, the Petitioner submitted the following: an August 2020 Supplement B from a supervising deputy district attorney from the Office of the [redacted] District Attorney;<sup>3</sup> an April 2015 e-mail from the U-Visa coordinator at the [redacted] County Office of the District Attorney which states in part that charges were filed against the perpetrator for the crime against the Petitioner in conjunction with a domestic violence report against a different victim; and copies of various California and federal criminal statutes.

The assessment opined that the Petitioner met all the criteria for Post-traumatic Stress Disorder (PTSD). The counselor noted that the Petitioner's cluster severity scores<sup>4</sup> were high or at the range for a PTSD diagnosis under the following criteria: re-experiencing symptoms, avoidance and numbing, negative alterations in cognition and mood, and hyperarousal symptoms. The Petitioner said that he was unable to obtain medical records from the [redacted] Hospital because it closed. Moreover, he was not familiar with the area because at the time he lived in [redacted] and he was only visiting a friend in [redacted]. He stated that he had suffered horrendous nightmares and continues to experience fear and anxiety as a result of the incident.

After considering the evidence in the record, the Director denied the U petition in November 2020. As an initial matter, the Director noted that the Petitioner "did not submit any evidence to support the information listed in the Supplement B." The Director summarized that the Petitioner was stabbed 7 to 8 times and was taken to the hospital, but stated that the Petitioner did not provide any evidence to establish the validity of his victim statement, and that although counsel indicated the hospital where the Petitioner was treated no longer existed, no evidence was provided to establish the closing of the hospital or that the records were destroyed. Thus, the Director concluded that the Petitioner was not a victim of qualifying criminal activity.

The Petitioner filed a combined motion to reopen and motion to reconsider. In April 2022, the Director granted the Petitioner's motion to reopen but determined that he still had not established that he was a victim of qualifying criminal activity because battery was not substantially similar to felonious assault, and he did not establish that any injuries suffered as a result of the listed crime were substantial and violent. However, the Director did not specifically address the Petitioner's motion to reconsider.

On appeal, the Petitioner argues that he suffered substantial physical and mental abuse as a result of having been the victim of qualifying criminal activity. In support, the Petitioner submits, pertinently, a brief, photographs of his scars, a copy of a statute addressing medical records availability<sup>5</sup> - stating in part that in California adult patient records shall be preserved for 7 years following the discharge of the patient; copies of AAO non-precedent decisions;<sup>6</sup> a January 2021 letter from Dr. J-S-;<sup>7</sup> previously submitted statements; previously submitted letters from his friend who saw the Petitioner being stabbed 7 or 8 times, and the Petitioner's mother who recalls being told that her son was stabbed 7 or

---

<sup>3</sup> Except for a change in the name of the certifying official, the Supplement B remained the same regarding the date, statutory citation, description of the criminal activity being investigated or prosecuted, and a description of any known or documented injury to the Petitioner.

<sup>4</sup> A way to assess and measure PTSD symptoms.

<sup>5</sup> Cal. Code Regs. 22 § 70751 (2022).

<sup>6</sup> Our non-precedent decisions are binding only on the parties in those particular cases. See 8 C.F.R. § 103.3(c).

<sup>7</sup> We use initials to protect the privacy of individuals.

8 times, lost a lot of blood, and was between life and death. The Petitioner's mother also recalls travelling from her home in [ ] and visiting her son in the hospital in [ ] where he stayed for a week.<sup>8</sup>

**B. Law Enforcement Did Detect, Investigate, or Prosecute the Qualifying Crime of Felonious Assault as Perpetrated Against the Petitioner**

The Act requires U petitioners to demonstrate that they have “been helpful, [are] being helpful, or [are] likely to be helpful” to law enforcement authorities “investigating or prosecuting [qualifying] criminal activity,” as certified on a Supplement B from a law enforcement official. Sections 101(a)(15)(U)(i)(III) and 214(p)(1) of the Act. The term “investigation or prosecution” of qualifying criminal activity includes “the detection or investigation of a qualifying crime or criminal activity, as well as to the prosecution, conviction, or sentencing of the perpetrator of the qualifying crime or criminal activity.” 8 C.F.R. § 214.14(a)(5). While qualifying criminal activity may occur during the commission of non-qualifying criminal activity, *see* Interim Rule, *New Classification for Victims of Criminal Activity: Eligibility for “U” Nonimmigrant Status* (U Interim Rule), 72 Fed. Reg. 53014, 53018 (Sept. 17, 2007), the qualifying criminal activity must actually be detected, investigated, or prosecuted by the certifying agency as perpetrated against the petitioner. Section 101(a)(15)(U)(i)(III) of the Act; *see also* 8 C.F.R. § 214.14(b)(3) (requiring helpfulness “to a certifying agency in the investigation or prosecution of the qualifying criminal activity upon which his or her petition is based . . .”).

In this case, the Petitioner has met his burden of establishing that the certifying official detected the qualifying crime of felonious assault as perpetrated against him. We acknowledge that the certifying official provided the specific statutory citation for battery under California law. However, the remainder of the record indicates that law enforcement detected, and the Petitioner was a victim of, a felonious assault. In this regard, on both Supplements B, the certifying official checked the box indicating that the Petitioner was the victim of criminal activity involving or similar to “Felonious Assault.”<sup>9</sup> Further, the certifying official indicated on both Supplements B that the Petitioner “was stabbed multiple times by an assailant[,]” and after suffering multiple wounds, was “transported to hospital for emergency care.” The U-Visa coordinator at the [ ] County Office of the District Attorney indicated that charges were filed against the perpetrator for the crime against the Petitioner. The Petitioner's statement and other evidence in the record support the information contained in the Supplements B, that he was stabbed with a knife multiple times by an assailant and was hospitalized as a result. Based on the foregoing, the Petitioner has established by a preponderance of the evidence that law enforcement detected the qualifying crime of felonious assault as perpetrated against him.

**C. The Petitioner Suffered Substantial Physical and Mental Abuse as a Result of 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.

<sup>8</sup> The Petitioner's mother recalls the hospital as being the [ ] Hospital.

<sup>9</sup> Section 245 of the California Penal Code defines felonious assault, and it requires assault of another while armed with a deadly weapon or instrument other than a firearm.

§ 214.14(b)(1). The regulations provide that the determination of whether a petitioner has suffered substantial abuse 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 physical and psychological effects from the felonious assault. Although the perpetrator was only prosecuted for battery against the Petitioner, this does not diminish the severity of the crime or the physical or psychological injury the Petitioner suffered as a result. Similarly, although the Petitioner is unable to submit 1995 medical records for what is now a 27-year-old injury, this does not controvert the evidence in the record of the trauma he endured or the fact that he required emergency medical care. In this regard, the Supplements B state that the Petitioner was stabbed 7 or 8 times. In his letter, Dr. J-S-, who conducted a medical examination of the Petitioner, noted a 3-inch laceration on his abdomen as well as multiple healed lacerations. Dr. J-S- opined that the Petitioner's injuries would have been life-threatening at the time considering the location of the wounds, and he prescribed Sertraline 50 mg daily, an anxiety/antidepressant medication. He further averred that the Petitioner was currently suffering from depression, insomnia, difficulty thinking and concentration [sic], emotional fear, anxiety, mood swings and chronic post-traumatic stress syndrome.

Considering the foregoing, the Petitioner has established by a preponderance of the evidence that he suffered and continues to suffer substantial physical and 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).

### III. CONCLUSION

The Petitioner has overcome the Director's grounds 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 a new decision consistent with the foregoing analysis.