



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

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

In Re: 27333474

Date: JUL. 13, 2023

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 petition, concluding that the record did not establish that the Petitioner was a victim of qualifying criminal activity. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review 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 dismiss the appeal.

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, 376 (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). The term “any similar activity” refers to criminal offenses in which the nature and elements of the offenses are

substantially similar to the statutorily enumerated list of criminal activities” at section 101(a)(15)(U)(iii) of the Act. 8 C.F.R. § 214.14(a)(9).

A Form I-918, Petition for U Nonimmigrant Status (U petition) must be filed with a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), from a law enforcement official certifying that the petitioner was a victim of qualifying criminal activity that the certifying agency is investigating or prosecuting, possesses information about the crime, and “has been, is being, or is likely to be helpful” in the investigation or prosecution of the crime. Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i). The Supplement B must be signed by the relevant law enforcement official “within the six months immediately preceding the filing of the U petition.” 8 C.F.R. § 214.14(c)(2)(i).

II. ANALYSIS

The Petitioner filed his U petition in June 2016 with two Supplements B. The first Supplement B was signed and certified by a Sergeant with the [redacted] Police Department in [redacted], California, and was dated October 25, 2012. The second Supplement B was signed and certified by a Lieutenant with the [redacted] Police Department (certifying official) and was dated December 18, 2015. The Director addressed the contents of the December 18, 2015, Supplement B in their decision. On the second Supplement B, the certifying official checked a box indicating that the Petitioner was a victim of criminal activity involving “Other:” and entered “Does not apply” into the field. The certifying official listed “PC [California Penal Code] 594 (Vandalism)” as the statutory citation that was investigated or prosecuted. When asked to provide a description of the criminal activity and any known injury to the Petitioner, the certifying official stated that in December 2006, officers were pursuing an auto theft suspect, and the “suspect attempted entry into [the Petitioner’s] residence by breaking a kitchen window. When contacted [the Petitioner] said he heard the window break and looked outside to see the suspect running away. Now, 12-03-15, [the Petitioner] is advising the suspect gained entry into his residence, threw him on the floor, then fled.” When asked to provide a description of any known or documented injury to the Petitioner, the certifying official said there were no injuries.

In reviewing the General Offense Hardcopy (police report) provided with his U petition, the narrative indicates that the Petitioner was asleep in his living room when he heard his kitchen window being broken. The Petitioner told the officers that he saw an unidentified subject running south bound behind his apartment and stated that he did not see who was attempting to pull open his front door. The police report indicates that the perpetrators were initially investigated for several charges, including possess/manufacture/sell dangerous weapons/explosives under PC 12020(A)(1), obstructing and resisting a peace officer under PC 148(A)(1), possessing a stolen vehicle under PC 496D(A), vandalism under \$1000 under PC 594(A)(1), vehicle theft with specific priors under PC 666.5(A), take vehicle without owner’s consent under VC (California Vehicle Code) 10851(A) and evading a peace officer under VC 2800.1(A). The Petitioner’s statement submitted with his U petition indicated that one of the perpetrators gained entry to his home and “started beating [him] on [his] face, head and body.” The Petitioner stated that the man threw him to the ground and then ran out of his home. The Petitioner noted that he “did not realize” that the officer he spoke to “did not understand that the suspects had broken into [his] home and assaulted [him].”

After a review of the record, the Director issued a request for evidence (RFE) informing the Petitioner that it appeared that he had not reported to the police that he was the victim of felonious assault and

noted that the crime listed on the Supplement B, vandalism, was not considered qualifying criminal activity. The Director ultimately denied the U petition. In the decision, the Director noted that the Petitioner's statements differed from those contained in the police reports, as the police report did not reference an assault. The Director acknowledged statements from others in the record who stated that they saw the Petitioner with bruises and scrapes, but noted they were contradictory from the arrest report, which stated that the Petitioner only heard his window breaking and saw the suspect running away from his house. The Director determined that the Petitioner had not established that he was the victim of qualifying criminal activity.

On appeal, the Petitioner submits a brief. In the brief, the Petitioner contends that the first Supplement B, which we previously noted was signed and certified on October 25, 2012, was ignored by the Director. We note that the first Supplement B was initially included with a U petition that was denied by the Director of the Vermont Service Center in May 2014. Further, a Supplement B must be signed by the relevant law enforcement official "within the six months immediately preceding the filing of the U petition." 8 C.F.R. § 214.14(c)(2)(i). As such, we determine that the Director did not err in not considering the contents of the first Supplement B. The Petitioner does not provide any legal citation to indicate that the first Supplement B, dated nearly four years prior to the filing of the instant U petition, should have been given equal weight to the second Supplement B, which was valid as submitted. The Petitioner's explanation of the potential of a language barrier being the reason the initial police report makes no mention of an assault is unavailing, as the second Supplement B does not include a citation to any felonious assault statute, and notes that the Petitioner was the victim of "Other: Does not apply." The Petitioner's statements alone are insufficient to corroborate the events that took place. The Petitioner further states that in considering the second Supplement B, "USCIS would have correctly denied [his] U-Visa application had it been the only certification provided to them." As we have already stated that the Director did not err in their decision to not consider the first Supplement B as it was not valid when submitted, we determine that the Petitioner has not established that he was a victim of qualifying criminal activity.

The Director's decision also noted that the Petitioner had not met the other requirements of substantial physical or mental harm, possessing information, being helpful to law enforcement, and jurisdiction, as required by section 101(a)(15)(U)(i) of the Act. However, as the Petitioner does not address these deficiencies on appeal, we need not reach them now.

III. CONCLUSION

The Petitioner has not established that he was a victim of qualifying criminal activity, as required. As such, he has not demonstrated his eligibility for U-1 classification.

ORDER: The appeal is dismissed.