



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

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

In Re: 25014482

Date: MAR. 20, 2023

Appeal of Vermont 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 Vermont Service Center denied the petition, concluding that the record did not establish that she had been helpful in the investigation or prosecution of a qualifying criminal activity. The matter is now before us on appeal. 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 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 term “investigation or prosecution” is defined to also include the detection of the qualifying criminal activity. 8 C.F.R. § 214.14(a)(5).

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”). However, if a petitioner “only reports the crime and is unwilling to provide information concerning the criminal activity to allow an investigation to move forward, or refuses to continue to provide assistance to an investigation or prosecution, the purpose of the [Battered Immigrant Women Protection Act of 2000] is not furthered.” *See* Interim Rule, *New Classification for Victims of Criminal Activity: Eligibility for “U” Nonimmigrant Status*, 72 Fed. Reg. 53014, 53019 (Sept. 17, 2007). Thus, after the initiation of cooperation, petitioners must establish that they have not refused or failed to provide information and assistance reasonably requested of them. 8 C.F.R. § 214.14(b)(3).

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 the petitioners' helpfulness in the investigation or prosecution of the qualifying criminal activity perpetrated against them. 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 Forms I-918. 8 C.F.R. § 214.14(c)(1). 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, including the Supplement B. Section 214(p)(4) of the Act; 8 C.F.R. § 214.14(c)(4).

II. ANALYSIS

The Petitioner filed her Form I-918 with a Supplement B in 2016 seeking U nonimmigrant classification based on being the victim of incidents of domestic violence that occurred separately in 1998 and in 2008. In part 4 of the initial Supplement B, a certifying official from the [] Police Department 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 unreasonably refused to provide assistance. When asked to provide an explanation for these responses, the official wrote that regarding the 1998 incident the Petitioner provided preliminary information and signed criminal complaints to have the offender arrested, but with regard to the 2008 incident that she did not want to pursue criminal charges and that the case was closed as she refused to cooperate. The Director requested additional evidence in part to establish that the Petitioner met the helpfulness criteria above. In response, the Petitioner submitted updated Supplements B certified by the [] Police Department and the [] State's Attorney's Office. The updated Supplement B certified by the [] Police Department provided the same information as in its previous Supplement B. The Supplement B certified by the [] State's Attorney's Office similarly checked boxes indicating the Petitioner had been helpful and had not refused to provide assistance, but when asked to provide an explanation for the responses stated that criminal proceedings were stricken when the complaining witness was not in court. The Director denied the Form I-918 after concluding, in part, that while the Petitioner was helpful at the outset of the investigation or prosecution in 1998, she did not continue to provide assistance when she declined to continue with the case which resulted in the termination of the case. The Director similarly concluded that the Petitioner did not continue to provide assistance in 2008 when she made a report to the police but only did so to record the incident rather than to make an arrest.

On appeal, the Petitioner claims that the Director erred in concluding the Petitioner was not sufficiently helpful in the investigations for each incident and erred in treating the incidents as a continuous crime requiring continuous cooperation between each incident. More specifically, the Petitioner asserts that a petitioner's ongoing responsibility to cooperate with law enforcement is limited to situations in which law enforcement affirmatively requests assistance, that petitioners do not need to act without a request for further assistance, and that the Supplements B submitted in response to the request for evidence establish she was helpful and never refused to cooperate with a reasonable request for assistance. In support of her appeal, the Petitioner cites to other decisions that we have issued, but we note that the decisions were not published as precedent and therefore do not bind us in the current adjudication. *See* 8 C.F.R. § 103.3(c).

The record reflects there were two independent instances of domestic violence and therefore we will address each incident separately. Regarding the incident in 1998, the record establishes that the Petitioner was initially helpful in the investigation and prosecution of the crime committed by her ex-husband when she provided information to the police and signed complaints to have her ex-husband arrested. The Petitioner describes in her affidavit, however, that she wanted to give her ex-husband a second chance and that she told court staff at one of the criminal hearings that she did not want to continue with the case. The Supplement B certified by the [] State's Attorney's Office states that proceedings were stricken when the complaining witness (referring to the Petitioner) was not in court. And a court record submitted by the Petitioner similarly shows that on [] 1998, the complaining witness was not in court. As noted above, the Petitioner must establish that she has not refused or failed to provide information and assistance reasonably requested of her. The record reflects that law enforcement required the Petitioner to appear in court in some capacity against her ex-husband in order to prosecute the crime he committed against her, which is a reasonable request from law enforcement. And the record reflects that the Petitioner either refused or failed to appear for such a hearing which resulted in the termination of prosecution against her husband. While the Petitioner suggests in her brief that the signing of a Supplement B by itself should be sufficient evidence of helpfulness, as stated above, we determine in our sole discretion the credibility of and weight given to *all* the evidence, including information contained in the Supplement B. While there may be some discrepancy between whether the Petitioner was in court but refused to continue with the case or failed to appear, either scenario reflects that the Petitioner refused or failed to provide reasonably requested assistance to law enforcement in 1998. The Petitioner therefore has not established that she meets the required helpfulness for U nonimmigrant classification as it relates to the 1998 incident.

Regarding the incident in 2008, the Petitioner points out that both the initial and updated Supplements B have boxes checked to certify that she was helpful and has not refused to provide assistance reasonably requested. The Petitioner then asserts that by checking these boxes, "both the [] Police Department] and [] State's Attorney's Office] are verifying that they did not make such a request of her." However, additional evidence reflects that the Petitioner has not established that she complied with any reasonable requests for assistance. We note that at the time of this incident, prosecutions for crimes in Illinois, other than felonies, were made by indictment, information, or complaint. 725 Ill. Comp. Stat. 5/111-1(a). Where the charging instrument was a complaint, it must have been sworn to and signed by the complainant, which in this case was the Petitioner. *See* 725 Ill. Comp. Stat. 5/111-3(b). The complaint is then a precursor to an arrest warrant and prosecution. *See* 725 Ill. Comp. Stat. 5/107-9, 5/111-1(a); *People v. Rudd*, 174 N.E. 3d 539, 540 (Ill. App. Ct. 2020). This process by which a person presses charges to initiate prosecution is consistent with the factual scenario for the 1998 incident that is described in the Supplement B signed by the [] State's Attorney's Office where the Petitioner "signed criminal complaints to have the offender arrested and charged with domestic battery." The Supplements B certified by the [] Police Department for the 2008 incident, however, state that the Petitioner either did not want to or refused to pursue any criminal charges against her ex-husband and that the case was closed because she "refused to cooperate." Moreover, the Petitioner provides in her statement that an officer advised her that her ex-husband could be prosecuted, "if [she] wanted to press charges." The police report for the incident indicates, and the Petitioner concurs in her statement, that she did not want her ex-husband arrested, and decided to report the crime only to make a record as proof of what her ex-husband had done in the past. This evidence, combined with the legal procedure described above,

reflects the police requested that the Petitioner press charges to continue with the investigation and prosecution of the case, which was a reasonable request, and that she refused to do so. We are not insensitive to the factors that affected the Petitioner's actions in this case, however we agree with the Director that the Petitioner has not shown by a preponderance of the evidence that she did not refuse or fail to provide information and assistance reasonably requested of her by law enforcement when she declined to press charges. She therefore has not shown that she meets the helpfulness requirement for U nonimmigrant classification as it relates to the 2008 incident.

III. CONCLUSION

The Petitioner has not 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 in either of the two incidents discussed above. Accordingly, the Petitioner is not eligible for U nonimmigrant classification.

ORDER: The appeal is dismissed.