



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

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

In Re: 28919419

Date: DEC. 6, 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. *See* Immigration and Nationality Act (the Act) sections 101(a)(15)(U) and 214(p), 8 U.S.C. §§ 1101(a)(15)(U) and 1184(p). The U-1 classification affords nonimmigrant status to victims of certain crimes who assist authorities investigating or prosecuting the criminal activity.

The Director of the Vermont Service Center denied the Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that the Petitioner had not established that she was helpful in the investigation or prosecution of qualifying criminal activity, as required. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner submits a brief and additional evidence.

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 withdraw the Director’s decision and remand the matter for entry of a new decision consistent with the following analysis.

## **I. LAW**

To establish eligibility for U-1 Nonimmigrant classification, a petitioner must show, *inter alia*, that they have been helpful, are being helpful, or are likely to be helpful to law enforcement authorities investigating or prosecuting the qualifying criminal activity perpetrated against them. Section 101(a)(15)(U)(i) of the Act; 8 C.F.R. § 214.14(b)(3). This 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. 212.14(b)(3). The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

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’ credible and reliable information regarding, and helpfulness in the investigation or prosecution of, the

qualifying criminal activity perpetrated against them.<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, including the Supplement B. Section 214(p)(4) of the Act; 8 C.F.R. § 214.14(c)(4).

## II. ANALYSIS

### A. Procedural and Factual History

The record reflects that in August 2017 the Petitioner filed her U petition with a Supplement B signed and certified by a deputy prosecuting attorney of the [REDACTED] County Prosecutor's Office in [REDACTED] Indiana (certifying official). In Part 3 of the Supplement B, the certifying official indicated that in September 2016, the Petitioner was the victim of domestic violence, felonious assault, and other: strangulation, perpetrated by her former partner. In Part 4 of the Supplement B, the certifying official indicated that the Petitioner possesses information concerning the criminal activity, has not been requested to provide further assistance in the investigation or prosecution, and has not unreasonably refused to provide assistance in the criminal investigation or prosecution of the crime, but answered "no" to the question of whether the Petitioner "[h]as been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity" and did not provide an explanation.

Related to the incident certified in the Supplement B, the Petitioner submitted a statement, a letter from a domestic violence shelter, a no contact order, a protection order, correspondence with the prosecuting attorney's office, a [REDACTED] Police Department Public Summary Report, and the following court documents: a chronological case summary, a Misdemeanor Judgement Order, Information for counts 1 and 2, an Appearance Form, a Domestic Violence Determination, the State's offer of plea, a Petition for finding of probable cause for no contact order and GPS monitoring of the perpetrator, an *Affidavit in Support of Probable Cause* to the court from the Deputy Prosecuting Attorney (*Affidavit*), and a Finding of probable cause and Order of the court.

In her statement, the Petitioner indicated that she called the police when her boyfriend was physically battering her while pregnant. She recalled that the police called an ambulance to transport her to the hospital where she continued to tell the police everything that happened that day and her boyfriend's violent history. The police then provided her with information for a domestic violence shelter where she received therapy and services for several months. The Petitioner explained that she provided statements and information to police when they arrived at her home and at the hospital. She further stated that after she provided all of the information requested during the investigation, law enforcement was able to secure a conviction against the perpetrator. The *Affidavit* from the Deputy Prosecuting Attorney specifically identified the Petitioner as the victim and indicated that a police officer spoke to her at the scene of the incident where she was visibly upset and crying, "had marks around her neck," and indicated she had been punched in her stomach, which the officer observed was noticeably pregnant. It stated that the police officer accompanied the Petitioner to the hospital and interviewed

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<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.

her through a translator where she provided all of the detailed information pertaining to the incident. It further stated that the State requested a no contact order and GPS monitoring of the perpetrator upon release from custody.

After considering the evidence in the record, the Director denied the U petition, highlighting the certifying official's answer of "no" to the question of whether the Petitioner "[h]as been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity" and lack of an explanation. Specifically, the Director noted that the Petitioner did not provide an attachment or letter from the certifying official explaining the reasoning for this answer being marked "no" and indicated that the certifying official must verify the Petitioner's helpfulness or explain the reason for marking "no" on the form.

On appeal, the Petitioner contends that the answer of "no" on the Supplement B must have been an oversight of the certifying official as she fully cooperated and provided all requested information to law enforcement, as evidenced within the *Affidavit* from the deputy prosecuting attorney. The Petitioner argues that the deputy prosecuting attorney's *Affidavit* to the court clearly demonstrates that law enforcement had all the cooperation needed from the Petitioner to move forward with the prosecution and ultimate conviction of the perpetrator. She asserts that the *Affidavit* should be incorporated into the Supplement B as it serves as a statement from the prosecutor concerning her cooperation and explaining her helpfulness to cure the issue on the Supplement B. She also asserts that her completion of the Checklist of Victim Rights submitted to the deputy prosecuting attorney one month prior to the perpetrator's conviction is further evidence of her continued cooperation with law enforcement.

#### B. The Petitioner Has Established That She Was Helpful in the Investigation or Prosecution of Qualifying Criminal Activity

In the present case, the Petitioner has sufficiently established her helpfulness in the investigation and prosecution of qualified criminal activity as required by section 101(a)(15)(U)(i)(III) of the Act and by regulation at 8 C.F.R. § 214.14(b)(3).

The regulations require the Petitioner to show that "since the initiation of cooperation, [s]he has not refused or failed to provide information and assistance reasonably requested." 8 C.F.R. § 214.14(b)(3). The preamble to the U nonimmigrant rule states, in pertinent part:

[USCIS] interprets "helpful" to mean assisting law enforcement authorities in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim. USCIS is excluding from eligibility those . . . victims who, after initiating cooperation, refuse to provide continuing assistance when reasonably requested. . . . USCIS believes that the statute imposes an ongoing responsibility on the . . . victim to provide assistance, assuming there is an ongoing need for the applicant's assistance.

Interim Rule, *New Classification for Victims of Criminal Activity: Eligibility for "U" Nonimmigrant Status*, 72 Fed. Reg. 53014, 53019 (Sept. 17, 2007).

Here, considering all evidence provided, the record does not show that the Petitioner refused or failed to provide information or assistance reasonably requested by the [ ] County Prosecutor's Office at any point after she commenced her cooperation in its investigation of the qualifying criminal activity. To the contrary, although the certifying official answered "no" where asked whether the Petitioner "[h]as been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity" on the Supplement B, the same certifying official specified that the Petitioner did not unreasonably refuse to provide assistance in the investigation or prosecution. Further, the deputy prosecuting attorney's *Affidavit* to the court clearly indicates that the Petitioner cooperated with law enforcement at the time of the incident and later while being treated at the hospital, and the Petitioner's submission of the Checklist of Victim Rights approximately one month prior to the perpetrator's conviction reinforces this conclusion. Based on the foregoing, the evidence of record demonstrates that the Petitioner submitted sufficient evidence to establish, by a preponderance of the evidence, that she has been helpful, is being helpful, or is likely to be helpful as imposed by statute and regulation.

### III. CONCLUSION

The Petitioner has demonstrated, by a preponderance of the evidence, that she was helpful in the investigation or prosecution of qualifying criminal activity. 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 for the entry of a new decision consistent with the foregoing analysis.