



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

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

In Re: 29002003

Date: DEC. 7, 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 (Director) denied the application, concluding that the record did not establish that the Petitioner suffered substantial physical or mental abuse as a result of being 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, a petitioner must show that they, *inter alia*, have suffered substantial physical or mental abuse as a result of having been the victim of qualifying criminal activity. Section 101(a)(15)(U)(i) of the Act; 8 C.F.R. § 214.14(b)(1). The burden of proof is on the 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). 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 such evidence. Section 214(p)(4) of the Act; 8 C.F.R. § 214.14(c)(4).

II. ANALYSIS

The Petitioner was in a two-year relationship with E-M-F-.¹ During that relationship, the Petitioner and E-M-F- often argued about his infidelity. On one occasion in February 2007, E-M-F- slapped and beat the Petitioner and pulled her hair. The Petitioner reported E-M-F- to the police a few days later. The Petitioner told the officer that E-M-F- “hit her in the face.” She also told the officer that her lip was bleeding from being struck. However, the officer noted that he observed no visible injuries. He

¹ Initials are used to protect the individual’s privacy.

gave the Petitioner a copy of the Illinois Domestic Violence Act Victim Rights Form, and informed her of counseling and protective order resources.

The Director determined that “overall, the evidence provided has not shown [the Petitioner] suffered from substantial harm.” Specifically, the Director noted that the narrative on the Supplement B stated that the incident occurred on August 5, 2007. However, the incident report stated that incident occurred on February 4, 2007, and February 5, 2007. The Director also noted that the Petitioner did not submit evidence that a domestic violence crime occurred besides the February 4th or February 5th incident. She also stressed that the Petitioner did not provide evidence of any physical injuries, or that she ever pursued counseling or protection order resources. Finally, the Director emphasized that the Petitioner did not contact the police despite seeing E-M-F- on multiple occasions after the incident that formed the basis for the U petition. The Director then concluded that, “with no evidence provided besides [the Petitioner’s] personal declaration and the one police incident report, [she] was unable to find that the severity of the qualifying crime caused [the Petitioner] substantial harm.”

On appeal, the Petitioner submits a letter and new Supplement B from the [redacted] State Attorney, and a forensic psychological evaluation from Licensed Clinical Social Worker (LCSW) [redacted]. She argues that this new evidence “should resolve the District Director’s doubts regarding the substantial physical and mental injuries she suffered as a victim of domestic violence meriting reopening and approval of her I-918 petition.”

We acknowledge the letter and the new Supplement B, which resolve the discrepancy regarding the date of the incident. The Supplement B forms generally describe the domestic battery incident, but do not indicate that the Petitioner suffered any injuries. In a sworn statement submitted in response to a request for evidence (RFE), the Petitioner claimed that E-M-F- caused her a lot of emotional and physical pain. She emphasized that it has been “hard for her to trust again [,] but with a lot of patience from [her] husband, [she is] doing better.” The Petitioner additionally stated that E-M-F- is in Mexico and she worries that he could hurt her or their children if they ever had to return to the country.

In a sworn statement submitted on appeal, the Petitioner added that, “[she is] still afraid of [E-M-F-] and very sad that [her] children have him as a father and so [she] will always be tied to him in that way.” She stated that she now knows to call the police if E-M-F- ever harms her again. However, she stated that if E-M-F- harmed her in Mexico, she did not believe she would have any protection because the police there do not care like the police do here.

During an April 2023 forensic psychological evaluation, the Petitioner told LCSW [redacted] that she experienced sadness and hopelessness for several months after the incident because she was afraid of asking E-M-F- for financial support for their children. The Petitioner also recalled experiencing hair loss due to stress, biting her nails and pulling her eyelashes out due to feeling trapped. She stated that she still experiences flashbacks when she is triggered by things that remind her of the domestic battery. Based on her evaluation, LCSW [redacted] determined that the Petitioner “experience[ed] recurrent intrusive thoughts and symptoms directly associated with the victimization that occurred on 02/05/2007.” She diagnosed the Petitioner with Post-Traumatic Stress Disorder, Chronic, and recommended weekly counseling sessions with a therapist to stabilize the Petitioner’s current symptoms in her day-to-day life.

While we remain sensitive to the Petitioner's victimization, the record does not establish, by a preponderance of the evidence, that she has suffered substantial physical or mental abuse as a result of the domestic violence committed against her. We stress that the February 2007 incident was a one-time occurrence, of short duration, that did not result in lasting physical effects, impair the Petitioner's ability to function, or cause serious long-term consequences. Moreover, the Petitioner stated that she has seen E-M-F- on various occasions after the February 2007 incident, but that he did not hurt her on any of those occasions. Finally, she admitted that she has not had any contact with E-M-F since 2010— a few years after their daughter was born in 2007.

Additionally, we acknowledge that the Petitioner experienced sadness, hopelessness, stress and hair loss as a result of the February 2007 incident and was diagnosed with Post-Traumatic Stress Disorder. However, the record as a whole does not indicate that the incident permanently or seriously affected the Petitioner's health or mental soundness. We specifically note that the Petitioner did not seek mental health treatment until recently, in April 2023. Additionally, the Petitioner has not explained on appeal while she waited more than 15 years to seek mental health treatment despite her claim that she still suffers insomnia and is frequently triggered by the February 2007 incident. Moreover, although LCSW [] recommended weekly counseling with a therapist, the Petitioner has not submitted any evidence on appeal that she followed that recommendation. Instead, the record indicates that she has been able to maintain full-time employment as a packer since 2013, married her current spouse in 2016, and had a third child with him in 2017.

Considering the relevant factors in the regulation and the entirety of the record, including the evidence submitted on appeal, the harm the Petitioner suffered as a result of domestic violence does not constitute substantial physical or mental abuse as section 101(a)(15)(U)(i)(I) of the Act requires.

III. CONCLUSION

The Petitioner was the victim of the qualifying crime of domestic violence. While we acknowledge the impact of that crime upon the Petitioner, the record does not show that the Petitioner suffered substantial physical or mental abuse as a result of the domestic violence. Accordingly, the Petitioner is not eligible for U nonimmigrant classification.

ORDER: The appeal is dismissed.