



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

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

In Re: 26876829

Date: MAY 25, 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 Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that the record did not establish that the Petitioner was helpful in the investigation or prosecution 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

The U-1 classification affords nonimmigrant status to victims of qualifying criminal activity who suffer substantial physical or mental abuse as a result of the crime and possess information about the crime. Section 101(a)(15)(U)(i) of the Act. 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. 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). A U petition must be filed with a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), from a law enforcement official certifying the petitioner's helpfulness in the investigation or prosecution of the qualifying crime. Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i).

II. ANALYSIS

The Petitioner filed his U petition in 2015 based on having been the victim of felonious assault. With his U petition he submitted a 2015 Supplement B signed by a certifying official from the

[redacted] Police Department in North Carolina. The Supplement B indicated, in relevant part, that the Petitioner has been, is being, or is likely to be helpful in the investigation and/or prosecution of the criminal activity. The Supplement B also noted that the Petitioner provided a description of the suspects and gave a written statement to police, and that detectives “did not attempt to follow up with the petitioner after the initial report date.” After issuing a request for evidence, the Director denied the U petition based on a determination that the Petitioner had not established that he was helpful in the investigation or prosecution of a qualifying crime. The Director explained that the Center for Fraud Division (CFDO) at the Vermont Service Center had reached out to a detective at the [redacted] [redacted] Police Department, who stated that after the initial report by the Petitioner at the scene of the criminal incident, the certifying official was unable to contact the Petitioner, resulting in the investigation being placed on inactive status. The detective also informed the CFDO that, if asked again, he would not sign a Supplement B for the Petitioner due to the inability to determine whether he was a victim or a witness, follow up with him, and investigate the criminal incident.

On appeal, the Petitioner submits a new Supplement B, signed in December 2022 by a lieutenant at the [redacted] Police Department. The new Supplement B reiterates that the Petitioner has been, is being, or is likely to be helpful in the investigation or prosecution of criminal activity and that he has not refused or failed to assist law enforcement. The new Supplement B also states, “After careful consideration and review, the petitioner was cooperative and helpful toward the investigation of this . . . case” It explains that the Petitioner provided a description of the suspects; gave a written statement to police; “assisted with a ‘show-up/line-up’ near the scene of the incident”; and “is listed as both a Victim and the Reporting Person of the incident.” Further, the new Supplement B reports that as of the date of the 2015 Supplement B, “the Detective had not attempted a follow-up with the Petitioner since the initial report date,” but that a newly assigned detective did speak with the Petitioner in 2017, and that one attempt to contact him in 2018 was unsuccessful. The Supplement B concludes that “the U-Visa Unit can affirm that the Petitioner has been helpful and available outside the one attempt in 2018. It is believed that, if needed, the Petitioner would be willing to assist . . . with this case, now and in the future.” As additional supporting evidence, the Petitioner submits on appeal a personal statement, a statement from the friend who was at the scene of the crime with him and was also a victim, and copies of email communications between the Petitioner’s attorney and the [redacted] [redacted] Police Department.

Because the Petitioner submits new material evidence that the Director has not had the opportunity to review, we will remand the matter to the Director to consider it in the first instance and to determine whether the Petitioner otherwise meets the requirements for U nonimmigrant status.

ORDER: The Director’s decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.