



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

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

In Re: 29001321

Date: NOV. 16, 2023

Appeal of Nebraska 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 Nebraska Service Center denied the Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that Petitioner did not submit a properly completed Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B) from a certifying law enforcement official and did not establish that he suffered substantial physical or mental abuse as a result of having been the 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 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 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, are being, 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.

As required initial evidence, a petitioner must submit a Supplement B from a law enforcement official certifying the petitioner's helpfulness in the investigation or prosecution of the qualifying criminal activity perpetrated against them.¹ Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i). A certifying official is defined as "[t]he head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant

¹ 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.

status certifications on behalf of that agency” or a “Federal, State, or local judge.” 8 C.F.R. § 214.14(a)(3).

U.S. Citizenship and Immigration Services (USCIS) has sole jurisdiction over U petitions. 8 C.F.R. § 214.14(c)(4). Although the petitioner 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 his U petition in 2017 based on a felonious assault committed against him. The record reflects that the perpetrator struck the Petitioner in the back of the head with a glass bottle. The bottle broke and caused a laceration in the Petitioner’s head, requiring treatment at the hospital and closure with eight staples. The perpetrator was charged with felony assault with a deadly weapon other than a firearm in violation of California Penal Code section 245(a)(1).

A. The Supplement B was Signed by a Certifying Official

With his U petition, the Petitioner submitted a Supplement B from the District Attorney’s Office in [REDACTED] County, California. The Director issued a request for evidence (RFE) because, in relevant part, the name and title of the certifying official who signed the Supplement B were omitted from the form. Therefore, the Director requested evidence that the official who signed the Supplement B was the head of the certifying agency or a person in a supervisory role who had been designated to issue U nonimmigrant status certifications, as required under 8 C.F.R. §§ 214.14(a)(3)(i). The Director subsequently denied the U petition because the evidence did not establish that the Supplement B was signed by a certifying official.²

On appeal, the Petitioner submits two letters from the [REDACTED] County District Attorney’s Office, which is the certifying agency. One is a 2017 letter from the certifying official who signed the Supplement B, informing the Petitioner’s attorney that the request for a certified Supplement B was approved and enclosed.³ As the Petitioner notes, the signature of the certifying official on the 2017 letter matches that on the Supplement B and is accompanied by the certifying official’s name and title. The other document the Petitioner submits on appeal is a 2023 letter from the [REDACTED] County District Attorney’s Office confirming that the person who signed the Supplement B was Supervising Deputy District Attorney and a designated U visa certifying official on the date of their signature.

Accordingly, upon consideration of the documentation submitted below and on appeal, a preponderance of the evidence shows that the Supplement B was properly executed by a certifying

² The Director also noted that because the criminal activity against the Petitioner was not properly certified, it could not be considered qualifying. However, the Director does not appear to have made a separate determination that the felonious assault investigated and prosecuted as committed against the Petitioner, if properly certified, was not a qualifying crime under section 101(a)(15)(U)(iii) of the Act.

³ The Petitioner asserts on appeal that the 2017 letter was originally submitted concurrently with the Supplement B, and that the Director should have considered the letter and the Supplement B together to determine the name and title of the official who signed the Supplement B. However, the record does not reflect that the 2017 letter was previously submitted.

official as required by 8 C.F.R. § 214.14(c)(2)(i). We withdraw the Director's conclusion to the contrary.

B. The Petitioner Suffered Substantial Physical or Mental Abuse as a Result of the Qualifying Criminal Activity

The Act and regulations provide that a petitioner is eligible for U nonimmigrant status if they demonstrate, in relevant part, that they suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity. Section 101(a)(15)(U)(i)(I) of the Act; 8 C.F.R. § 214.14(b)(1). The regulations provide that the determination of whether a petitioner has suffered substantial abuse is based on a number of factors, including but not limited to:

The nature of the injury inflicted or suffered; the severity of the perpetrator's conduct; the severity of the harm suffered; the duration of the infliction of the harm; and the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim, including aggravation of pre-existing conditions. No single factor is a prerequisite to establish that the abuse suffered was substantial. Also, the existence of one or more of the factors automatically does not create a presumption that the abuse suffered was substantial. A series of acts taken together may be considered to constitute substantial physical or mental abuse even where no single act alone rises to that level[.]

8 C.F.R. § 214.14(b)(1). As discussed above, the Director determined that the Petitioner did not establish that he suffered substantial physical or mental abuse as a result of the felonious assault committed against him.

The Director noted that the perpetrator hit the Petitioner in the back of the head with a partially full beer bottle while the Petitioner was using a urinal in a public restroom. Also, the Director acknowledged that the Petitioner required medical treatment for a deep gash in his head and expressed ongoing fear and anxiety after the incident. However, the Director concluded that while being the victim of assault with a deadly weapon is "cause of alarm" and brought "the uncertainty of unpredictable events," the evidence did not establish that the level of abuse the Petitioner experienced was substantial. In particular, the Director stated that although the Petitioner submitted medical records from the date of his injury and two follow-up appointments, he did not submit any subsequent medical records or other evidence to substantiate his claims that he suffered nightmares and anxiety and had to miss work.

On appeal, the Petitioner argues that the Director improperly disregarded his credible personal statement and required specific types of corroborating evidence in violation of the requirement that USCIS consider any credible evidence pursuant to 8 C.F.R. § 214.14(c)(4).

The Supplement B reflects that the Petitioner was using the urinal at a dance club when the perpetrator, whom the Petitioner had never met, struck him on the back of the head with a half full glass beer bottle. The Petitioner "was struck so hard the bottle broke and caused a deep laceration in his head" approximately six inches long. The related police report similarly notes that the Petitioner "sustained a large 6 [inch] laceration" and was transported to the hospital. Due to the "amount of blood that was

coming out,” responding officers were “unable to determine the depth or width of the laceration.” Officers observed the Petitioner “had blood coming down the front and sides of his face” and complained of neck pain from the force of the impact. The medical records from the hospital emergency department on the date of the incident state that the Petitioner was treated for a four-centimeter⁴ laceration on the head, which was closed with eight staples. The Petitioner returned for two follow-up medical appointments and the staples were removed ten days after his injury.

In his personal statement with his U petition, the Petitioner recalled that he felt he would pass out because of the amount of blood that resulted from the laceration to his head and he was in a lot of pain afterward. In a statement submitted in response to the Director’s RFE, the Petitioner claimed that the laceration was treated with “16 staples,”⁵ he suffered significant pain and a bruise to the head, and he could not work for two weeks. He also stated he has nightmares of someone chasing and hitting him, wakes up afraid in the night, feels fear when strangers approach him, and believes he is in danger.

As a result of the assault with a deadly weapon, the Petitioner suffered an injury to his head, received emergency care, and endured ongoing emotional trauma. The police report, medical records, and his credible personal statement support his claims. Considering the foregoing, the Petitioner has established by a preponderance of the evidence that he suffered substantial physical and mental abuse as a result of qualifying criminal activity. Section 101(a)(15)(U)(i)(I) of the Act; 8 C.F.R. § 214.14(b)(1). The Director’s determination to the contrary is withdrawn.

III. CONCLUSION

The Petitioner has overcome the Director’s grounds for denying his U petition. Therefore, we will remand the matter to the Director for consideration of whether the Petitioner has met the remaining eligibility requirements⁶ for U nonimmigrant classification under section 101(a)(15)(U)(i) of the Act.

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

⁴ The record contains inconsistent information about the size of the laceration, but also explains that responders at the scene were unable to determine its size due to the amount of blood.

⁵ The medical records reflect that he was treated with eight staples.

⁶ The Petitioner also addresses on appeal the Director’s denial of his Form I-192, Application for Advance Permission to Enter as a Nonimmigrant (waiver application). He does not appear to contest the Director’s findings of inadmissibility but wishes to provide further evidence about his eligibility as a matter of discretion. We do not have jurisdiction to review the discretionary denial of a waiver application from the Director, and the denial of a waiver application is not appealable. 8 C.F.R. § 212.17(b)(3).