



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

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

In Re: 31020284

Date: MAY 1, 2024

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 denied the petition, concluding that the record did not establish that the Petitioner was 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 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, 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 burden of proof is on a 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).

A “victim of qualifying criminal activity” is defined as an individual who has “suffered direct and proximate harm as a result of the commission of qualifying criminal activity.” 8 C.F.R. § 214.14(a)(14). “Qualifying criminal activity” is “that involving one or more of” the 28 types of crimes listed at section 101(a)(15)(U)(iii) of the Act or “any similar activity in violation of Federal, State, or local criminal law.” Section 101(a)(15)(U)(iii) of the Act; 8 C.F.R. § 214.14(a)(9). The term “‘any similar activity’ refers to criminal offenses in which the nature and elements of the offenses are substantially similar to the statutorily enumerated list of criminal activities” at section 101(a)(15)(U)(iii) of the Act. 8 C.F.R. § 214.14(a)(9).

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.¹ 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

The Petitioner filed his U petition in December 2017 with a Supplement B signed and certified by a commander in the [redacted] Minnesota Police Department for an incident that occurred in [redacted] 2016.² The certifying official checked boxes indicating that the Petitioner was the victim of criminal activity involving or similar to "Felony Assault", "Attempt to Commit Any of the Named Crimes", and "Murder." The certifying official cited to sections 609.19 (Murder in the second degree), 609.222 (Assault in the second degree), 609.223 (Assault in the third degree), and 609.2113 (Criminal vehicular operation; bodily harm)³ of the Minnesota Statutes as the specific statutory citations investigated or prosecuted. When asked to provide a description of the criminal activity being investigated or prosecuted, as well as any known or documented injury to the Petitioner, the certifying official indicated that the Petitioner "was a victim of attempted murder, felony assault and other related crimes that resulted in great bodily harm and substantial bodily harm. See enclosed police reports for additional information" and he "has suffered and continues to suffer substantial physical, emotional and mental trauma as a result of the crimes." The narrative section of the police report explains that after the suspect fled from the scene of an assault on a child, she ran into a vehicle stopped at a red light which then struck the Petitioner's vehicle. The Petitioner, identified in the police report as "victim 4", exited his vehicle to check on the other driver's injuries, and he was hit by the suspect as she tried to flee, dragged under her vehicle, hit a second time by the suspect, and taken to the hospital for treatment of his injuries.

The Director denied the U petition concluding that the record in its totality, including additional documentation submitted with the response to the request for evidence and notice of intent to deny, did not establish, as required, that the Petitioner was the victim of qualifying criminal activity. The Director noted instead that a review of the submitted documents as a whole indicated that the Petitioner was the victim of a criminal vehicular operation causing bodily harm/hit and run with injuries in violation of statute 609.2113, and that the additional statutes listed in the Supplement B corresponded to other victims and offenses described in the police report and court documents. The Director

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.

² In response to the Director's request for evidence, the Petitioner submitted a second Supplement B with updated certifying official information. Both Supplements B contain the same details regarding the criminal activity being investigated or prosecuted and harm to the Petitioner.

³ The submitted documents refer to both criminal vehicular operation with bodily harm and hit and run with injury as a crime under section 609.2113 of the Minnesota Statutes.

concluded that the Petitioner was therefore not a victim of qualifying criminal activity. On appeal, the Petitioner refers to his previously submitted evidence and argues that he was the victim of the qualifying crimes of second and third degree felonious assault and second degree attempted murder, or in the alternative, that he was the victim of criminal activity substantially similar to felonious assault and manslaughter.

The Act requires that U petitioners demonstrate that they “ha[ve] been helpful, [are] being helpful, or [are] likely to be helpful” to law enforcement authorities “investigating or prosecuting [qualifying] criminal activity,” as documented on a certification from a law enforcement official. Sections 101(a)(15)(U)(i)(III) and 214(p)(1) of the Act. The requisite law enforcement certification must state, in pertinent part, that the petitioner “has been a victim of qualifying criminal activity that the certifying official’s agency is investigating or prosecuting.” 8 C.F.R. § 214.14(c)(2)(i). “Investigation or prosecution” of qualifying criminal activity “refers to the detection or investigation of a qualifying crime or criminal activity, as well as to the prosecution, conviction, or sentencing of the perpetrator of the qualifying crime or criminal activity.” 8 C.F.R. § 214.14(a)(5).

The Petitioner asserts that though criminal vehicular operation was the charged crime, the facts of the case demonstrate that he was also a victim of third degree felonious assault, in that he suffered substantial bodily injury from the intended actions of his assailant; second degree assault in that he was assaulted with a motor vehicle, which is a dangerous weapon that inflicted substantial bodily harm; and attempted murder in the second degree, in that the assailant ran the Petitioner over with a motor vehicle at a high rate of speed and continued to drive knowing he was pinned under the vehicle, evidencing a depraved mind while intentionally engaging in actions likely to cause his death.

Although the Director’s denial indicates that the [redacted] Police Department report shows that the Petitioner was a victim of a hit and run with injuries and therefore he did not establish that he was a victim of qualifying criminal activity, a preponderance of the evidence demonstrates that the police department detected, investigated, or prosecuted a qualifying crime as perpetrated against the Petitioner. The two properly filed Supplements B show that the certifying officials, both commanders in the [redacted] Police Department that responded to the [redacted] 2016 incident, checked boxes indicating the Petitioner was the victim of criminal activity involving or similar to felonious assault, attempt to commit any of the named crimes, and murder; cited to the Minnesota Statutes pertaining to murder in the second degree, assault in the second and third degree, and criminal vehicular operation/bodily harm as the specific statutory citations investigated or prosecuted; and provided a description of the criminal activity being investigated or prosecuted, as well as any known or documented injury to the Petitioner, by indicating that he was a victim of attempted murder, felonious assault, and other related crimes that resulted in great bodily harm and substantial bodily harm. As such, the Petitioner has overcome the basis for the Director’s denial. We will remand the matter for the Director to determine whether he has satisfied the remaining eligibility criteria 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.