



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

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

In Re: 8022026

Date: AUG. 10, 2020

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 Form I-918, Petition for U Nonimmigrant Status (U petition), and dismissed a subsequent motion to reopen and reconsider. The matter is now before us on appeal, and the Petitioner asserts that the Director erred in dismissing her motion. The Administrative Appeals Office reviews the questions in this matter *de novo*. See *Matter of Christo’s Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will remand the matter to the Director for the issuance of a new decision.

I. LAW

Section 101(a)(15)(U)(i) of the Act provides U-1 nonimmigrant classification to victims of qualifying crimes who suffer substantial physical or mental abuse as a result of the offense. These victims must also possess information regarding the qualifying crime and be helpful to law enforcement officials in their investigation or prosecution of it. *Id.* U.S. Citizenship and Immigration Services (USCIS) has sole jurisdiction over U petitions, and petitioners bear the burden of proof 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, 375 (AAO 2010). Although petitioners may submit any evidence for the agency to consider, USCIS determines, in its sole discretion, the credibility of and weight given to all the evidence. Section 214(p)(4) of the Act; 8 C.F.R. § 214.14(c)(4).

II. ANALYSIS

The Petitioner filed her U petition with USCIS in September 2014. In 2018, while her petition remained pending, the Petitioner was arrested on charges of second-degree assault. Shortly thereafter, the Director issued a request for evidence (RFE) concerning the arrest, requesting documents from the police or criminal court, as well as a statement from the Petitioner regarding the criminal acts. The Petitioner responded to the RFE, submitting documentation indicating that all charges stemming from the arrest were dismissed and the related records were sealed. After considering the Petitioner’s response, the Director denied the U petition, concluding that the Petitioner was ineligible for U nonimmigrant status because she did not provide a statement describing the circumstances leading to

her arrest. The Petitioner filed a motion to reopen and reconsider, arguing that the Director erred in denying the U petition. With her motion, she also submitted a sworn statement discussing the circumstances leading to her arrest, how her neighbor falsely accused her of criminal actions, and how all charges brought against her were dismissed. The Director dismissed the motion, concluding that the Petitioner did not provide new evidence or any precedent decisions to consider, and did not establish that the decision was incorrect based upon the evidence of record at that time.

On appeal, the Petitioner argues that the decision dismissing her motion was made in error because the Director did not acknowledge or consider the sworn statement she submitted with her motion. Upon *de novo* review, the Director's decision dismissing the motion does not reflect acknowledgement or consideration of the Petitioner's sworn statement. Moreover, the Director's decisions denying the U petition and dismissing the subsequent motion do not explain how either the absence of a sworn statement or the existence of an arrest in the record impact the Applicant's eligibility for U nonimmigrant status. Considering the foregoing, we will remand the matter to the Director for reconsideration of whether the Petitioner has satisfied the eligibility criteria for U nonimmigrant status under section 101(a)(15)(U)(i) of the Act.

ORDER: The decision of the Director is withdrawn, and the matter is remanded for the entry of a new decision consistent with the foregoing analysis which, if adverse to the Petitioner, shall be certified to us for review.