



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

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

In Re: 6723753

Date: SEPT. 1, 2020

Appeal of Nebraska Service Center Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks “U-1” nonimmigrant classification as a victim of qualifying criminal activity 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). The Director concluded that the U petition was not approvable because the record did not establish the Petitioner was the victim of qualifying criminal activity and had suffered substantial physical or mental abuse as a result of such criminal activity. On appeal, the Petitioner asserts his eligibility for U nonimmigrant status. We review 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.

## **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 the petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. 8 C.F.R. § 214.14(c)(4); *Matter of Chawathe*, 25 &N Dec. 369, 375 AAO 2010). As a part of meeting this burden, a petitioner must submit a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), from a law enforcement official certifying a petitioner’s helpfulness in the investigation or prosecution of the qualifying criminal activity. Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i). Although a petitioner may submit any relevant, credible evidence for us to consider, USCIS determines, in its sole discretion, the credibility of and weight given to all the evidence, including the Supplement B.

## **II. ANALYSIS**

The Petitioner filed his U petition in 2015, along with a Supplement B that indicated that he was the victim of criminal activity involving or similar to felonious assault and “related crimes.” The sheriff

of the [ ] Washington Sheriff's Office (certifying official) listed the statutory citation of the crime investigated as Washington Revised Code (Wash. Rev. Code) section 9A.36.041, which corresponds to fourth degree assault, a misdemeanor. In response to a request for evidence from the Director, the Petitioner submitted a new Supplement B in which the certifying official listed the statutory citation for the investigated crime as Wash. Rev. Code section 9A.36.021, which corresponds to second degree assault, a felony. The certifying official indicated in each Supplement B that the perpetrator struck the Petitioner in the face with a closed fist, causing facial contusions, swelling in the left eye, and a broken tooth. The Petitioner indicated in his statement that he was sitting in his car in a parking lot when the perpetrator punched him in the face through the open window. The Petitioner claimed that he lost consciousness for an unknown period of time. When he woke up, he felt dizzy, his tooth was broken and his mouth was bleeding, and his eye was swollen and painful.

The Director concluded that the Petitioner did not demonstrate that he was the victim of qualifying criminal activity because he did not establish that fourth degree assault under Wash. Rev. Code section 9A.36.041 was substantially similar to felonious assault or any other qualifying criminal activity. Additionally, the Director determined that the Petitioner did not establish that second degree assault had been investigated or prosecuted and that he was a victim of that crime. The Director explained that although the Petitioner submitted a second Supplement B indicating that the crime investigated was second degree assault, the evidence did not establish that the certifying official actually investigated or prosecuted second degree assault or that the Petitioner suffered bodily harm severe enough to rise to the level of second degree assault. Further, the Director concluded that the Petitioner had not established that he suffered substantial physical or mental abuse as a result of qualifying criminal activity.

On appeal, the Petitioner submits a letter from the Senior Legal Advisor at the certifying official's office explaining why the certifying official changed the citation of the investigated crime on the Supplement B from fourth degree assault under Wash. Rev. Code section 9A.36.041 to second degree assault under Wash. Rev. Code section 9A.36.021. The letter states that the certifying official determined that "Assault 2 is the more appropriate classification" due to the "significant injuries" the Petitioner sustained. Additionally, the Petitioner submits a declaration from a law professor analyzing the crime of assault under Washington law and its application to the circumstances in the Petitioner's case. Furthermore, the Petitioner provides a psychosocial assessment that was performed after the Director's denial decision and addresses mental and emotional harm the Petitioner suffered as a result of the crime against him.

The Director is the more appropriate party to consider the impact of the new evidence on the Petitioner's eligibility for U nonimmigrant status. *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). Based on the new evidence submitted on appeal, we will remand this matter to the Director for further consideration of the Petitioner's U petition, including whether he has established that he was the victim of qualifying criminal activity and suffered substantial physical or mental abuse as a result.

**ORDER:** The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision.