



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

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

In Re: 8977405

Date: JULY 30, 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 that the Petitioner was helpful to law enforcement in the investigation or prosecution of qualifying criminal activity, and possesses information regarding the qualifying criminal activity upon which his petition was based. On appeal, the Petitioner asserts his eligibility for U nonimmigrant status. Upon *de novo* review, we will dismiss the appeal.

I. LAW

To qualify for U-1 nonimmigrant classification, a petitioner must establish 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.

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 26 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 the 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).

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). The petitioner must also provide a statement describing the facts of their victimization as well as any additional evidence they want USCIS to consider to establish that they are a victim of qualifying criminal activity and have otherwise satisfied the remaining eligibility criteria. 8 C.F.R. § 214.14(c)(2)(i)-(iii). 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 “Other: Break in & Robbery.” A captain of the [redacted] North Carolina police department (certifying official) indicated at Part 3.5 of the Supplement B that four people broke into the Petitioner’s house through the front door and demanded money. The Petitioner took them to a room and gave them his wallet and then ran out of the house while two people ran after him. The suspects “left when unable to catch” the Petitioner. In his personal statement, the Petitioner alleges that three men broke into his house, started beating his cousin, and then chased the Petitioner into the woods while shooting at him.

The Director determined that the U petition was not approvable because the record did not establish that the Petitioner had been helpful in the investigation or prosecution of the qualifying criminal activity and since initial cooperation had not refused or failed to provide information and assistance reasonably requested. Additionally, the Director concluded that the Petitioner did not establish that he possesses credible and reliable information establishing that he had knowledge of the details concerning the qualifying criminal activity upon which his petition is based.

A. Helpfulness

The Director determined that the Supplement B did not certify the Petitioner’s helpfulness because the certifying official checked “No” in response to Part 4.2, which asks whether the Petitioner “[h]as been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity” upon which the U petition was based. The certifying official also wrote, “When follow up was done he was gone. Off. could not find him.” Furthermore, the certifying official did not provide any response to Part 4.3, which asks whether the Petitioner has “been requested to provide further assistance in the investigation and/or prosecution,” and Part 4.4, which asks whether the Petitioner “[h]as unreasonably refused to provide assistance in a criminal investigation and/or prosecution” of the qualifying crime. In Part 4.5, the certifying official wrote, “Victim told officers what happened at first. Later 2 months when follow up was done and victim could not be located case was closed.”

In a statement, the Petitioner claimed that immediately after the incident, he filed a police report and then returned to his house and packed his belongings to move. He explained that he was too afraid to live in that house anymore, so he moved out the same night and changed his phone number. He stated that the police were unable to reach him after that time and he did not go back to see if the police needed any more information from him. In a supplemental statement, the Petitioner added that he was afraid to return to the police department because he was not legally present in the United States. On appeal, he asserts that he did not think the police needed to talk to him because he had already told them that he did not

have a chance to see the faces of the perpetrators while he was running away from them. Therefore, he did not think it was necessary to check on the status of the case.

Section 214(p)(1) of the Act states that a Supplement B “shall state that the alien ‘has been helpful, is being helpful, or is likely to be helpful’ in the investigation or prosecution of criminal activity described in section 101(a)(15)(U)(iii).” Although the Petitioner provides an explanation of his failure to assist law enforcement in the investigation or prosecution of the crime against him, the Supplement B the Petitioner submitted does not certify the Petitioner’s helpfulness, but instead indicates that the Petitioner was not helpful. Furthermore, the certifying official did not provide any response to the questions at Parts 4.3 and 4.4 of the Supplement B which relate to whether the Petitioner was requested to provide any further assistance and unreasonably refused to provide such assistance. Accordingly, the record does not contain a properly executed Supplement B meeting the requirement at section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i), and the Petitioner has not met his burden of establishing his helpfulness to the certifying official. The Petitioner is consequently ineligible for U-1 classification.

B. The Remaining Eligibility Criteria for U-1 Nonimmigrant Classification

U-1 nonimmigrant classification has four separate and distinct statutory eligibility criteria. The Petitioner has not established that he has been, is being, or is likely to be helpful to law enforcement authorities investigating or prosecuting qualifying criminal activity, as required by section 101(a)(15)(U)(i) of the Act. Since this basis for denial is dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve the Petitioner’s appellate arguments regarding whether he possesses information regarding qualifying criminal activity upon which his petition was based. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

Furthermore, we note that a preponderance of the evidence does not establish that the Petitioner was the victim of qualifying criminal activity, as section 101(a)(15)(U)(i) of the Act requires. The certifying official indicated on the Supplement B that the Petitioner was the victim of criminal activity involving or similar to “Other: Break in & Robbery,” but did not list any statutory citation for the crime investigated as having been committed against the Petitioner. The Petitioner asserts on appeal that he was the victim of burglary under North Carolina General Statutes (N.C. Gen. Stat.) section 14-61, as well as armed robbery. However, the evidence does not clarify whether burglary and armed robbery as referenced by the Petitioner are the same as “Break in & Robbery” as listed on the Supplement B. Although the police report listed the investigated crime as “Burglary – Forcible Entry,” it also did not cite the applicable criminal law. Moreover, the Petitioner’s assertion on appeal conflicts with his claim with the initial filing of his U petition, when he argued that he was the victim of robbery with firearms or other dangerous weapons in violation of N.C. Gen. Stat. section 14-87 and kidnapping in violation of N.C. Gen. Stat. section 14-39. Finally, break-in, robbery, and burglary do not appear on the list of qualifying criminal activities at section 101(a)(15)(U)(iii) of Act, and the evidence currently in the record does not establish that any of those crimes is similar to a qualifying criminal activity at section 101(a)(15)(U)(iii) of Act. 8 C.F.R. § 214.14(a)(9). Accordingly, the current

evidence of record does not establish that the Petitioner was the victim of qualifying criminal activity. We hereby reserve this issue because the Petitioner is otherwise ineligible for U nonimmigrant status.

III. CONCLUSION

The Petitioner has not established that he has been, is being, or is likely to be helpful to law enforcement authorities investigating or prosecuting qualifying criminal activity. He has not met the requirement to submit a Supplement B that certifies his helpfulness to law enforcement. Accordingly, he is ineligible for U nonimmigrant classification.

ORDER: The appeal is dismissed.