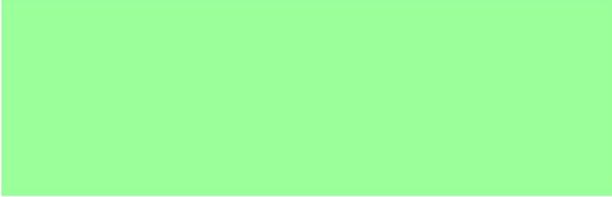




U.S. Citizenship  
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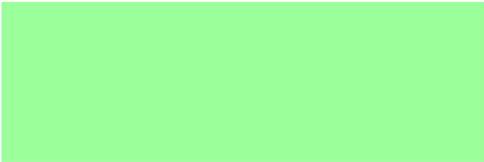


Date: **DEC 05 2014** Office: VERMONT SERVICE CENTER FILE:

IN RE: PETITIONER:

PETITION: Petition for U Nonimmigrant Classification as a Victim of a Qualifying Crime Pursuant to Section 101(a)(15)(U) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(U)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center (the director), denied the U nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and the petition will remain denied.

The petitioner seeks nonimmigrant classification under section 101(a)(15)(U) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(U), as an alien victim of certain qualifying criminal activity.

The director denied the petition because the petitioner failed to establish that she had suffered substantial physical or mental abuse as a result of her victimization. On appeal, counsel submits a brief.

*Applicable Law*

Section 101(a)(15)(U) of the Act provides, in pertinent part, for U nonimmigrant classification to:

(i) subject to section 214(p), an alien who files a petition for status under this subparagraph, if the Secretary of Homeland Security determines that --

- (I) the alien has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described in clause (iii);
- (II) the alien . . . possesses information concerning criminal activity described in clause (iii);
- (III) the alien . . . has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement official, to a Federal, State, or local prosecutor, to a Federal or State judge, to the Service, or to other Federal, State, or local authorities investigating or prosecuting criminal activity described in clause (iii); and
- (IV) the criminal activity described in clause (iii) violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States;

Domestic violence is listed as qualifying criminal activity in clause (iii) of section 101(a)(15)(U) of the Act.

As used in section 101(a)(15)(U)(i)(I) of the Act, the term *physical or mental* abuse is defined at 8 C.F.R. § 214.14(a)(8) as “injury or harm to the victim's physical person, or harm to or impairment of the emotional or psychological soundness of the victim.”

The eligibility requirements for U nonimmigrant classification are further explicated in the regulation at 8 C.F.R. § 214.14, which states, in pertinent part:

(b) *Eligibility.* An alien is eligible for U-1 nonimmigrant status if he or she demonstrates all of the following . . .:

(1) The alien has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity. Whether abuse is substantial 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[.]

\* \* \*

In addition, the regulation at 8 C.F.R. § 214.14(c)(4) prescribes the evidentiary standards and burden of proof in these proceedings:

The burden shall be on the petitioner to demonstrate eligibility for U-1 nonimmigrant status. The petitioner may submit any credible evidence relating to his or her Form I-918 for consideration by [U.S. Citizenship and Immigration Services (USCIS)]. USCIS shall conduct a de novo review of all evidence submitted in connection with Form I-918 and may investigate any aspect of the petition. Evidence previously submitted for this or other immigration benefit or relief may be used by USCIS in evaluating the eligibility of a petitioner for U-1 nonimmigrant status. However, USCIS will not be bound by its previous factual determinations. USCIS will determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence, including Form I-918, Supplement B, "U Nonimmigrant Status Certification."

#### *Facts and Procedural History*

The petitioner is a native and citizen of Mexico who claims to have entered the United States as a child with a border crossing card. The petitioner filed the instant Petition for U Nonimmigrant Status (Form I-918 U petition) with an accompanying U Nonimmigrant Status Certification (Form I-918 Supplement B) on November 19, 2012. On October 22, 2013, the director issued a Request for Evidence (RFE) that the petitioner suffered substantial physical or mental abuse as a result of qualifying criminal activity. The petitioner, through counsel, responded with a statement, which the director found insufficient to establish the petitioner's eligibility. Accordingly, the director denied the Form I-918 U petition. The petitioner timely appealed the denial of the Form I-918 U petition. The petitioner states through counsel on appeal that she suffered substantial abuse "based on the combination of factors that she experienced." The petitioner states that she and her siblings were subjected to an ongoing pattern of abuse by their father which made the certified criminal activity particularly traumatizing for her.

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*Analysis*<sup>1</sup>

The Form I-918 Supplement B that the petitioner submitted was signed by [REDACTED] City Attorney, [REDACTED] Arizona, Prosecutor's Office (certifying official), on September 11, 2012. The certifying official listed the criminal activity of which the petitioner was a victim at Part 3.1 as domestic violence. In Part 3.3, the certifying official referred to Arizona Revised Statutes (A.R.S.) §§ 13-1203 (assault), 13-1602 (criminal damage to property), 13-2904 (disorderly conduct), and 13-3613 (contributing to the dependency or delinquency of a child), as the criminal activities that were investigated or prosecuted. At Part 3.5, which asks the certifying official to briefly describe the criminal activity being investigated or prosecuted, he indicated that the petitioner's father "came to the family home intoxicated, yelled at the family, drove his truck into [the petitioner's] brother's car that was blocking him from leaving, and shoved [the petitioner's] brother." At Part 3.6, the certifying official indicated that "[t]here were no documented injuries" to the petitioner.

In her first statement submitted with the Form I-918 U petition, the petitioner described the events preceding her father's arrest for the certified crime. She stated that her father was drunk and knocking at the door because he wanted the keys to the car. The petitioner called her brother, who told her to not open the door, and her brother and her boyfriend eventually spoke to her father outside of the house while she remained inside.<sup>2</sup> According to the petitioner, when her mother arrived on the scene, her father became more aggressive and was screaming at her mother, which caused the petitioner to run into her room with her sister and lock the door. The petitioner asserted that she called the police when she thought that her father was going to hit her mother and only came out of her room after the police had placed her father in the back of the patrol car. She stated that she was scared, crying, and shaking when the police drove her father away from the scene.

In a second statement submitted in response to the RFE, the petitioner stated that her father had always been violent, particularly when he drank alcohol, and that he was hit her and her siblings, and threatened to kill himself. The petitioner again briefly recounted the events surrounding the certified criminal activity. She further testified that her father is living in Mexico and although he calls to talk with her and her siblings and is remorseful, she is still mad at her father and will not speak with him. The petitioner asserted that her life is better now that her father is no longer around; she feels safe and doesn't need to worry about "things," particularly her mother. The petitioner stated that she feels sad when she remembers what happened on the day the criminal activity took place.

Factors relevant to a determination of substantial abuse include the severity and duration of the harm, and serious harm to the health or mental soundness of the victim, including aggravation of pre-existing conditions. *See* 8 C.F.R. § 214.14(b)(1). The petitioner's statements submitted in support of her petition provided generally that her father was abusive during her childhood. The petitioner did not provide probative testimony regarding the effects of this abuse on her health, physical well-being or mental soundness. The petitioner asserted only that she feels sad when thinking about the day her father was arrested, and she provided no further information in her statements regarding ongoing trauma. The Form

<sup>1</sup> We conduct appellate review on a *de novo* basis.

<sup>2</sup> The petitioner was nineteen years old at the time of the incident.

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I-918 Supplement B also provides no relevant information regarding any known or documented injuries to the petitioner. Under the relevant factors described at 8 C.F.R. § 214.14(b)(1), the evidence in the record does not demonstrate that the petitioner suffered substantial abuse, as required by section 101(a)(15)(U)(i)(I) of the Act.

*Conclusion*

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here that burden has not been met.

**ORDER:** The appeal is dismissed. The petition remains denied.