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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

Date: **APR 13 2015** Office: VERMONT SERVICE CENTER FILE: [REDACTED]

IN RE: PETITIONER: [REDACTED]

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:

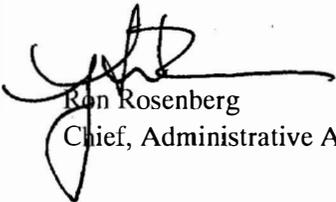
SELF-REPRESENTED

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 and she was inadmissible to the United States. On appeal, the petitioner submits a short statement, additional evidence and copies of documents already included in the record.

*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 a 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 initially entered the United States in November, 1993, without inspection, admission or parole. 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 February 25, 2013. On December 10, 2013, the director issued a Request for Evidence (RFE) that the petitioner suffered substantial or physical abuse as a result of qualifying criminal activity. The director also requested a detailed victim statement and an Application for Advance Permission to Enter as Nonimmigrant (Form I-192) in order to waive her grounds of inadmissibility. The petitioner responded with a Form I-192 and additional evidence, which the director found insufficient to establish the petitioner's eligibility. Accordingly, the director denied the Form I-918 U petition and the Form I-192. The petitioner appealed the denial of the Form I-918 U petition.

The petitioner states on appeal that she is suffering from depressive disorder as a result of qualifying criminal activity and that she has been helpful to the certifying agency. In support of her claims, the

Page 4

petitioner indicates that a brief or other evidence will be submitted within 30 days. As of the date of this decision, we have received no additional statements or evidence.

*Analysis*

We conduct appellate review on a *de novo* basis. Based on the evidence in the record, we find no error in the director's decision to deny the petitioner's Form I-918 U petition.

The Form I-918 Supplement B that the petitioner submitted was signed by [REDACTED] Detective Bureau, [REDACTED] California, Police Department (certifying official), on [REDACTED] 2013. 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 California Penal Code (CPC) § 273.5, corporal injury on a spouse/cohabitant, as the criminal activity that was investigated or prosecuted. At Part 3.5, which asks the certifying official to briefly describe the criminal activity being investigated or prosecuted, he stated that the petitioner "was a victim of domestic assault." At Part 3.6, which asks for a description of any known or documented injury to the petitioner, the certifying official indicated that the petitioner was injured on her cheek, left arm, and left leg.

In her statement submitted in response to the RFE, the petitioner recounted that on May 9, 2012, she and her ex-boyfriend were watching television, when she made a comment about how handsome a man was on the television. Her ex-boyfriend became jealous and started slapping and pushing the petitioner. The petitioner grabbed her phone and called her daughter to come to the house. When she arrived, the petitioner's daughter called 911 and the petitioner's ex-boyfriend was arrested. The petitioner claims that she has changed since this incident and is afraid to start a new relationship.

In her letter dated July 24, 2014, Ms. [REDACTED] a counselor at [REDACTED] indicates that the petitioner was a former client from 2008 - 2009 and she is currently seeking therapy for her diagnosis of Depressive Disorder. Medical documents from July 2008, prior to the certified incident of domestic violence, indicate that the petitioner was depressed, had a history of amphetamine abuse, and was diagnosed with a psychotic disorder.

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). Although the petitioner claims that she has suffered substantial mental abuse, the Form I-918 Supplement B, the crime report, statements from the petitioner, and the mental health and medical documents fail to probatively discuss any serious harm the incident caused to the petitioner's appearance, health, or physical or mental soundness. The record does not show that the severity of the harm and duration of the infliction of harm are sufficient to establish substantial abuse. The petitioner's statement submitted on appeal indicates that she suffered mental abuse as a result of the domestic violence incident and she is seeking mental help, but she provided no further information in her statement regarding ongoing trauma. In addition, although Ms. [REDACTED] indicates that the petitioner is seeking therapy for depressive disorder, she does not explain how or if the petitioner's depressive disorder was a result of her victimization, or if the incident aggravated her pre-existing condition(s). We also note that the medical documentation of the petitioner's depressive disorder and psychotic illness is dated several



years prior to the certified incident of domestic violence. While we do not minimize the petitioner's victimization, the overall evidence does not establish that she has suffered resultant substantial physical or mental abuse. 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.