



U.S. Citizenship  
and Immigration  
Services

Non-Precedent Decision of the  
Administrative Appeals Office

MATTER OF A-G-L-

DATE: OCT. 21, 2015

MOTION OF AN ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-918, PETITION FOR U NONIMMIGRANT STATUS

The Petitioner seeks nonimmigrant classification as a victim of certain qualifying criminal activity. See section 101(a)(15)(U) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(U). The Director, Vermont Service Center, denied the petition. The Petitioner filed a timely appeal, which we dismissed. The matter is now before us on a motion to reopen and a motion to reconsider. The motion to reopen and the motion to reconsider will be denied.

I. 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);

...

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

(b)(6)

*Matter of A-G-L-*

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."

## II. RELEVANT FACTS AND PROCEDURAL HISTORY

As the facts and procedural history were adequately documented in our prior decision, we repeat only certain facts as necessary. The Petitioner, while walking home from school, was robbed by a group of girls who pulled her necklaces off of her neck and took her phone. The Petitioner did not report having suffered any physical injury as a result of the robbery, but states that she suffered mental trauma.

On appeal, the Petitioner did not submit any additional evidence, but instead relied upon her August 8, 2012, affidavit in which she stated that she became anxious and afraid following the incident, leading her to change her walking route to and from school for the next seven or eight months. She also stated that she constantly replayed the robbery in her head, wishing she had fought back. She stated that the robbery and her lack of a reaction reminded her of abuse she suffered at the hands of her aunt in Mexico and the helplessness she felt in that situation when she also did not fight back. Our previous decision considered the evidence submitted, but agreed with the Director that the Petitioner did not demonstrate that she suffered substantial physical or mental abuse as a result of qualifying criminal activity, and therefore, dismissed the appeal. The Petitioner filed a motion to reopen and a motion to reconsider our previous decision and submitted a brief, an addendum to a mental health evaluation by [REDACTED] and statements from her mother, father and sister in support of her motions.

(b)(6)

*Matter of A-G-L-*

### III. ANALYSIS

We review these proceedings *de novo*. A full review of the record establishes that the Petitioner did not suffer substantial physical or mental abuse as a result of a qualifying criminal activity.

When assessing whether substantial physical or mental abuse was suffered as a result of having been a victim of qualifying criminal activity, USCIS looks at factors such as 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. 8 C.F.R. § 214.14(b)(1).

In her declaration submitted below, the Petitioner stated that she has become fearful of young African Americans, she is afraid to walk alone, she is depressed and anxious, and she has difficulty socializing. In her psychological evaluation, [REDACTED] a licensed mental health counselor, diagnosed the Petitioner with having symptoms of post-traumatic stress disorder as a result of the robbery. [REDACTED] stated that the robbery exacerbated the Petitioner's pre-existing latent depression and feelings of helplessness attributed to a history of child abuse. With her motions, the Petitioner provided an addendum to the earlier psychological evaluation and, in the addendum, [REDACTED] clarifies that the robbery incident in 2009 "had a clinically relevant triggering power over [the Petitioner's] other symptoms [and that] . . . [her] experience of the assault had **the same force** than [sic] the original trauma." (emphasis in original). [REDACTED] also clarified that, while her original evaluation indicated that the Petitioner "may be experiencing Other Specified Trauma Related Disorder," that diagnosis did not mean that the Petitioner's harm is not as severe as harm experienced by a person diagnosed with Post-Traumatic Stress Disorder. In sum, [REDACTED] addendum to her earlier psychological evaluation clarified that the robbery incident not only triggered latent and unresolved trauma stemming from the earlier child abuse but that the robbery incident impacted the Petitioner with the same force as the child abuse.

The statements of the Petitioner's family members recount in detail the abuse the Petitioner suffered at the hands of her aunt in Mexico and how the robbery seemed to have a disproportionately negative effect on the Petitioner due to the earlier abuse. The Petitioner's mother and father state that, as a result of the previous abuse of her as a child and the robbery, the Petitioner has significant emotional problems. The Petitioner's sister details the abuse suffered by the Petitioner at the hands of her aunt in Mexico and provides specific examples of how the Petitioner's troubled mental state manifests itself. According to the Petitioner's sister, their aunt required the Petitioner to clean the house, wash clothes by hand and perform work in the garden, as well as at a restaurant owned by their aunt. Their aunt slapped the Petitioner once when the Petitioner refused to obey her and their aunt often insulted the Petitioner's appearance. Taken together, the new declarations from the Petitioner's family members describe the Petitioner's current psychological state and contend that there is a connection between her current state of mental health and the robbery.

The evidence in the record is not sufficiently detailed to establish by a preponderance of the evidence that the Petitioner suffered substantial mental abuse under the factors described in the

(b)(6)

*Matter of A-G-L-*

regulation at 8 C.F.R. § 214.14(b)(1) and as required under section 101(a)(15)(U)(i)(I) of the Act. According to the regulations, aggravation of pre-existing conditions by a qualifying criminal activity is one factor to be considered and the additional evidence submitted on motion provides some additional detail regarding whether the qualifying criminal activity caused the Petitioner to suffer substantial physical or mental abuse under the factors described in the regulation at 8 C.F.R. § 214.14(b)(1) and section 101(a)(15)(U)(i)(I) of the Act. However, given that the Petitioner has not provided sufficient evidence to establish that she suffered any physical injury at all from the actual attack on her, indicating that the perpetrators' conduct was less than severe, and that any immediate harm was not of an extended duration, the Petitioner has not established that she suffered substantial harm as a result of the qualifying criminal activity.

In addition, even if the Petitioner had demonstrated, as [REDACTED] maintains, that the qualifying criminal activity had the same force as the abuse the Petitioner faced in Mexico, the Petitioner has not demonstrated that the conditions she faced in Mexico qualify as substantial physical or mental abuse. She was forced to work for her aunt and was slapped once and insulted frequently by her aunt; even if we found a causal link between the qualifying criminal activity and her treatment in Mexico, that treatment is not substantial abuse under the factors described in the regulation at 8 C.F.R. § 214.14(b)(1) and as required under section 101(a)(15)(U)(i)(I) of the Act.

#### IV. 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. Accordingly, the motions will be denied.

**ORDER:** The motion to reopen is denied.

**FURTHER ORDER:** The motion to reconsider is denied.

Cite as *Matter of A-G-L-*, ID# 14609 (AAO Oct. 21, 2015)