



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

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

MATTER OF A-S-G-

DATE: FEB. 13, 2017

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner seeks "U-1" nonimmigrant classification as a victim of qualifying criminal activity. *See* Immigration and Nationality Act (the Act) sections 101(a)(15)(U) and 214(p), 8 U.S.C. §§ 1101(a)(15)(U) and 1184(p). The U-1 classification affords nonimmigrant status to victims of certain crimes who assist authorities investigating or prosecuting the criminal activity.

The Director, Vermont Service Center, denied the Form I-918, Petition for U Nonimmigrant Status (U petition), concluding that section 204(c) of the Act, 8 U.S.C. § 1154(c), barred approval of the U petition because substantial and probative evidence in the record showed that the Petitioner previously entered into a prior marriage for the purpose of evading U.S. immigration laws. The Director further determined that the Petitioner had not established that he suffered substantial physical or mental abuse as a result of a qualifying criminal activity.

The matter is now before us on appeal. On appeal, the Petitioner submits a brief and additional evidence. The Petitioner asserts that section 204(c) of the Act is not applicable to U petitions. The Petitioner further contends that the record demonstrates the requisite substantial physical or mental abuse.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 101(a)(15)(U) of the Act provides U nonimmigrant classification to a petitioner who establishes that he or she has suffered substantial abuse as a result of having been a victim of criminal activity, and possesses information and is helpful to law enforcement concerning the criminal activity which violated the laws of or occurred in the United States.

To demonstrate substantial abuse, the regulation at 8 C.F.R. § 214.14(b)(1), requires that the Petitioner demonstrate that he or she:

[H]as 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

....

The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). A petitioner may submit any evidence for us to consider in our *de novo* review; however, we determine, in our sole discretion, the credibility of and the weight to give that evidence. *See* section 214(p)(4) of the Act; 8 C.F.R. § 214.14(c)(4).

## II. ANALYSIS

The Director denied the U petition, in part, determining that the Petitioner had previously sought to obtain an immigrant visa by reason of a marriage entered into solely for the purpose of evading immigration laws. As section 204(c) of the Act is not applicable to the Petitioner's U petition, we withdraw that basis for denial. Nonetheless, the present record before us does not establish the Petitioner's eligibility as he has not demonstrated that he suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity, as required by section 101(a)(15)(U)(i)(I) of the Act.

When assessing whether a petitioner has suffered substantial physical or mental abuse, U.S. Citizenship and Immigration Services (USCIS) looks at, among other issues, 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).

Here, the Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), indicates that the Petitioner was a victim of an aggravated robbery on two occasions in 2003. The certifying official, however, left blank part 3.6 of the Supplement B, which asks for a description of any known or documented injury to the Petitioner. The police incident reports in the record also do not reflect that the reporting officers observed any injuries or that the Petitioner reported being injured during the robberies.

In his written statements below, the Petitioner stated that the robberies occurred at the gas station where he worked and were committed by the same perpetrator. He recounted how the perpetrator pointed a gun at him during both robberies and described the incidents as the most traumatic experiences of his life. The Petitioner described himself as an easy-going person prior to the

(b)(6)

*Matter of A-S-G-*

robberies but stated that the criminal incidents adversely affected his mental health resulting in chronic emotional pain. He stated that he was unable to sleep and had flashbacks and nightmares in the aftermath of the robberies. The Petitioner indicated that he has become fearful, withdrawn, and paranoid. He asserted that the robberies affected his employment at the gas station as he eventually quit because he did not feel safe there. He stated that he initially took a year off but later became self-employed. He indicated that he has no employees because his anxiety prevents him from being able to work with people he does not know. The Petitioner further asserted that the emotional anguish resulting from the robberies also aggravated a preexisting injury caused as a result of a fall while he still resided in Sri Lanka. He recalled that following this accident, he was in a body cast for some time and that his recovery took approximately 2 years. The Petitioner stated that the stress from the robberies triggered pain in his body and that he was subsequently diagnosed with a bulging disc in his neck, herniated discs in his back, and a pinched nerve in his shoulder. He indicated that he is in chronic pain due to inflammation from stress. The Petitioner stated that following the robberies, he had been offered counseling through the local government program but indicated that he did not do so because he could not afford it and because he had no immigration status and was fearful of using a government-funded program. However, he indicated that he did attend a 10-day silent retreat at a meditation center at some point, after which he felt a big improvement.

The pertinent documentary evidence in the record below regarding the Petitioner's claim of substantial abuse also includes letters from: a physician, [REDACTED] M.D.; the Petitioner's spouse's parents and sibling; and a friend, [REDACTED]. [REDACTED] letter makes a treatment recommendation for the Petitioner's fibromyalgia and chronic back pain, bulging disk, and degenerative disks, but does not address any injuries or harm that the Petitioner suffered resulting from the robberies. The letters of his spouse's parents and sibling briefly indicate that the Petitioner was traumatized and changed by the robberies, in that he became more stressed and cautious of strangers and his surroundings. [REDACTED] indicated that the Petitioner appeared to be suffering from the trauma of the robberies because he was now paranoid, untrusting, and overly cautious.

On appeal, the Petitioner also submits a 2015 letter from licensed professional counselor (LPC), [REDACTED] summarizing concluding that the Petitioner suffered from Posttraumatic Stress Disorder (PTSD) resulting from having been twice robbed. [REDACTED] further stated that the Petitioner also suffered from sleep disorders, panic attacks, and continued stress, and recommended that the Petitioner undergo intensive therapy for 6 to 9 months twice a week. There is no indication that the Petitioner sought the recommended therapy. The Petitioner also includes what appears to be an incomplete email correspondence from a second LPC, [REDACTED] generally diagnosing the Petitioner as suffering from chronic PTSD. Neither [REDACTED] nor [REDACTED] provides any substantive information about the Petitioner's symptoms and the daily impact of his diagnosis on his life. The Petitioner further proffers on appeal a 2015 letter from an ayurvedic doctor, [REDACTED] who appears to be based in Sri Lanka, asserting that the Petitioner had been under his care for a spinal cord injury since 1998, when the Petitioner still resided in Sri Lanka. The letter indicates that the Petitioner was instructed to refrain from carrying or lifting heavy objects in order to avoid excessive stress that would aggravate his condition.

(b)(6)

*Matter of A-S-G-*

The Petitioner asserts on appeal that his detailed statements and the statements of his friends and counselors demonstrate that he suffered substantial emotional harm as a result of the qualifying crime committed against him. Contrary to his assertions, we conclude that the record does not demonstrate the requisite substantial physical or mental harm. The record shows that the claimed psychological harm arose out of two criminal incidents of short duration at his work place that occurred within days of each other over 13 years ago. According to his statements, the Petitioner continued to work at the same place for an unknown period without encountering the perpetrator again, and although he eventually quit at some point, he became and continues to be self-employed. In his written statements, the Petitioner does not assert and the record does not show that the perpetrator of the robberies physically harmed him during the commission of the crime. Further, as discussed, neither the Supplement B nor the police reports identify any documented harm or injuries to the Petitioner during the commission of the robberies. We do not minimize the emotional harm and fear the Petitioner experienced as a result of the commission of the robberies. However, although the Petitioner's statements include some details about the emotional impact of the robberies on his life, they do not sufficiently demonstrate the severe nature of the emotional harm he claims to have suffered, the duration of the infliction of the harm, or that the harm is a permanent or serious one. The Petitioner's own statement indicated that though he did not pursue therapy as recommended, he was in fact able to see a big improvement after attending a 10-day meditation retreat. Additionally, the remaining relevant documentary evidence, including the letters of his counselors, his doctors, his spouse's family members, and his friend are insufficient to support a finding that the criminal activities here caused a decline in the Petitioner's mental health or that such decline was a serious or a lasting result of the commission of the criminal activities.

Relying on letters from [REDACTED] and the Petitioner's ayurvedic doctor, the Petitioner also asserts on appeal that the emotional stress of the robberies caused him substantial physical harm by aggravating a pre-existing medical condition, namely a spinal cord injury resulting in chronic back pain and other injuries. [REDACTED] letter, however, made only a recommendation as to treatment for the Petitioner's various medical conditions, but otherwise, did not address the cause of the conditions or indicate whether the conditions pre-existed the 2003 robberies and were in any way impacted or aggravated by the resultant emotional stress from the robberies. Additionally, although both [REDACTED] and [REDACTED] indicated that the Petitioner should specifically refrain from heavy lifting or carrying to avoid excessive stress that would aggravate his chronic condition, neither stated that *emotional* harm or stress would aggravate, or had aggravated, his condition, as the Petitioner maintains on appeal. Thus, while we agree that the aggravation of pre-existing conditions as a result of a qualifying crime can establish the requisite substantial abuse, the evidentiary documents cited on appeal here do not demonstrate the criminal offenses committed against the Petitioner aggravated his pre-existing medical condition or otherwise impacted his life or overall well-being, such that it caused him substantial physical or mental harm. 8 C.F.R. § 214.14(b)(1).

Upon *de novo* review of the record in its entirety, the Petitioner has not demonstrated the severe nature of the injury inflicted or of the harm suffered, or that there is permanent or serious harm to his appearance, health, or physical or mental soundness. Accordingly, the record is insufficient to support a finding that the Petitioner suffered physical or mental abuse that was substantial under the

*Matter of A-S-G-*

factors and standard set forth in 8 C.F.R. § 214.14(b)(1) and as required by 101(a)(15)(U)(i)(I) of the Act.

### III. CONCLUSION

The Director's determination that section 204(c) of the Act bars approval of the U petition is withdrawn. However, the Petitioner remains ineligible for U nonimmigrant classification as he has not demonstrated that he suffered substantial physical or mental abuse as required under subsection 101(a)(15)(U)(i)(I) of the Act. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.

Cite as *Matter of A-S-G-*, ID# 112239 (AAO Feb. 13, 2017)