



COMMUNITY
LEGAL SERVICES IN
EAST PALO ALTO

VIA FEDERAL EXPRESS

March 18, 2014

U.S. Citizenship & Immigration Services
Vermont Service Center
U-VISA UNIT
75 Lower Welden Street
St. Albans, VT 05479

RE: Petition for U-Nonimmigrant Status (Form I-918), I-918 Supplement B and Application for Advance Permission to Enter as Nonimmigrant (Form I-192) with Fee Waiver

**** (A****)

Dear Sir or Madam:

I represent Mr. **** as evidenced by the enclosed Form G-28. See Form G-28. Mr. **** is filing a Form I-918, Petition for U Nonimmigrant Status, Form I-918, Supplement B, and a Form I-192 Application for Advance Permission to Enter as Nonimmigrant. Enclosed please find evidence that Mr. **** has suffered substantial harm as the result of having twice been a victim of felonious assault at the hands of a group of young men; that he possessed information concerning the crime; that he has been helpful to the law enforcement agency investigating the crime; that the criminal activity occurred in the United States; and that Mr. **** should be granted a waiver of inadmissibility.

Enclosed for filing please find the following documents in support of the U visa application:

1. Form G-28, Notice of Appearance as Attorney;
2. Form I-912, request for fee waiver, with supporting exhibit evidencing Mr. ****'s financial difficulties;
3. Form I-918, Petition for U Nonimmigrant Status;
4. Form I-918, Supplement B, U Nonimmigrant Status Certification, signed by Jonathan Raven, Chief Deputy District Attorney, Yolo County District Attorney's Office, dated October 30, 2013;
5. Form I-192, Application for Advance Permission to Enter as Nonimmigrant; and

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6. Exhibit List and Exhibits, including Mr. ****'s declaration with original signature.

Mr. **** is Eligible for a U Visa

Mr. **** meets the requirements under INA § 101(a)(15)(U)(i)(I) because he is the direct victim of a qualifying crime. As Mr. **** explains in detail in his declaration, he was the victim of felonious assault. Exhibit ("Exh.") A (Declaration of Mr. ****). See also Form I-918, Supplement B. In September 2012, Mr. **** was attacked by a group of young men in a park. The young men assaulted him, threw objects at him, tried to burn him with a lighter, and yelled obscenities and threats. See Form I-918, Supplement B. Mr. **** spoke with police officers regarding the incident, and provided them with a detailed description of what happened to him. Id. The information Mr. **** gave the police assisted in the investigation of the crime. Id. Mr. **** suffered substantial harm due to the crime. Exh. A, Exh. E (Copy of statements from Ravenswood Family Health Center).

I. Mr. **** Qualifies as a Direct Victim of the Qualifying Crime

Pursuant to INA § 101(a)(15)(U)(iii), the grant of a U visa is warranted for victims of qualifying crimes. See INA § 101(a)(15)(U)(iii), 8 U.S.C. § 1101(a)(15)(U)(iii). The list of qualifying crimes in the federal regulations includes felonious assault. INA § 101(a)(15)(U)(iii); 8 C.F.R. § 214.14(a)(9) ("Qualifying crime or qualifying criminal activity includes one or more of the following or any similar activities in violation of Federal, State or local criminal law of the United States . . . felonious assault . . .").

As reflected in the Form I-918, Supplement B, U Nonimmigrant Status Certification and supporting evidence, Mr. **** was the victim of felonious assault. See Form I-918, Supplement B; Exh. A; Exh. C (Copy of Woodland Police Department Supplemental Narrative Report, Report No. ****). Lastly, the qualifying criminal activity took place in Woodland, California and, therefore, the eligibility requirement that the activity had to have occurred in the United States has been satisfied. 8 C.F.R. § 214.14(b)(4).

II. Mr. **** Possessed Information Concerning the Criminal Activity and Was Helpful in its Investigation and Prosecution

To qualify for a U visa, the victim must have possessed information concerning the criminal activity and have been helpful to a certifying agency in the investigation or prosecution of the qualifying criminal activity upon which his or her petition is based. See 8 U.S.C. § 1101(a)(15)(U)(i)(III); 8 C.F.R. § 214.14(a)(14)(i). The U visa is warranted even after a prosecution has concluded because the U visa is intended for victims who have been helpful in the investigation and/or prosecution, even if the case is

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over. See INA § 8 U.S.C. § 1101(a)(15)(U)(i)(III) (“[T]he alien . . . has been helpful, is being helpful, or is likely to be helpful 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).”) (emphasis added)). Investigation or prosecution includes the detection or investigation of a qualifying crime or criminal activity, as well as to the prosecution, conviction, or sentencing of the perpetrator of the qualifying crime or criminal activity. See 8 C.F.R. 214.14(a)(5). The commentary to the interim regulations that took effect on October 17, 2007 specifies that “[t]he requirement was written with several verb tenses, recognizing that an alien may apply for U nonimmigrant status at different stages of the investigation or prosecution.” New Classification for Victims of Criminal Activity; Eligibility for “U” Nonimmigrant Status, 72 Fed. Reg. 53014-01, 53019 (Sept. 17, 2007)(emphasis added). The law enforcement certification (Form I-918, Supplement B), signed by Jonathan Raven of the Yolo County District Attorney’s Office confirms that Mr. **** possessed information concerning the criminal activity and was helpful in the investigation. See Form I-918, Supplement B; Exh. C; see also 8 C.F.R. § 214.14(a)(5); Exh. A.

On September 21, 2012, Mr. **** was sitting by himself in a park when he was surrounded by six young men. See Exh. A. The men started yelling at him, and one of the men attempted to burn his arm with a lighter. Mr. **** tried to escape, but the men prevented him from leaving. Id. One of the men raised his fists in front of Mr. **** and attempted to hit him. Id. Another ignited a lighter in Mr. ****’s face and attempted to burn his hair. Id. As Mr. **** ran away, but the young men chased after him and threw rocks at him. Id. They yelled obscenities and told Mr. **** to get out of the park. Id. Several days later, on September 24, 2012, Mr. **** was in the same park when the young men approached him again. Id. They yelled at him for calling the police, and told him that they were going to beat him. Id. They chased after him, throwing rocks and a six-foot-long piece of wood at him before he managed to escape. Id. see also Exh. C.

As Mr. **** states in his sworn declaration and as certified by the Yolo County District Attorney’s Office, Mr. **** spoke with police and provided a detailed statement describing the attacks, and the information he provided them assisted in the police investigation. See Exhs. A, C; Form I-918, Supplement B.

III. Mr. **** Suffered from Substantial Abuse

The victim must also have suffered substantial physical or mental abuse as a result of the qualifying criminal activity. INA § 101(a)(15)(U)(i)(I); 8 C.F.R. § 214.14(b)(1). “Physical or mental abuse means injury or harm to the victim’s physical person, or harm to or impairment of the emotional or psychological soundness of the victim.” 8 C.F.R. § 214.14(a)(8). “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

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appearance, health, or physical or mental soundness of the victim, including aggravation of pre-existing conditions.” 8 C.F.R. § 214.14(b)(1).

Mr. **** suffered substantial physical and mental abuse as a result of the crime. In his declaration, Mr. **** describes how he was sitting by himself in a park on September 21, 2012 when he was approached by six young men. See Exh. A. The men yelled at him, and one attempted to burn his arm with a lighter. Id. He tried to escape, but they wouldn't allow him to leave the park. Id. One of the men tried to hit him, while another ignited a lighter in his face and burned his hair. Id. Eventually Mr. **** was able to run away from the men. Id. As he was leaving, they yelled at him and threw rocks at him. Id. Several days later, on September 24, 2012, Mr. **** was in the same park when the young men approached him again. Id. One man yelled at Mr. **** for calling the police, and threatened to beat him. Id. The others threw rocks and wood at him until he managed to escape. Id. Mr. **** describes being “very afraid” during these attacks, and even being scared to report the crime to the police. Id.

Since he was attacked by the young men in the park, Mr. **** continues to suffer from fear and anxiety. Id. In his declaration, he describes this mental harm:

Since these attacks, I am afraid and very nervous much of the time. I moved from Woodland, CA to East Palo Alto, CA because I was afraid. However, even now, if there are two or three persons approaching me, I get very scared. Every time I leave my house, I am very vigilant and concerned that something could happen to me.

Id.

After relocating to East Palo Alto, California, Mr. **** has sought psychological treatment for the fear and anxiety that he experienced as a result of the attacks. Id.; See also Exh. F (Medical Records from Stanford Hospital and Clinics, Chabot Nephrology Group, and Ravenswood Family Health Center). In September 2013, he received a referral for treatment for post-traumatic stress disorder. See Exh. F. He continues to see a therapist regularly, and is working to overcome the mental harm that he has suffered. See Exhs. A, F.

Mr. ****'s Eligibility for a Waiver Under INA §212(d)(14)

Mr. **** is deserving of a waiver in the exercise of discretion, as his parents brought him to the United States when he was a child, and he has continuously resided in this country for approximately 14 years. See Exh. A. His family, who supports him with his medical problems, are here in the United States. Id.

After learning that he was suffering from kidney failure, Mr. **** came to the United States to receive better health care which saved his life. Id. In his declaration, Mr. **** explains:

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I was very sick. The day after I arrived in the United States, I was taken to the hospital. I was hospitalized for about a week. I continued to have serious health problems with my kidneys. For two years I had dialysis. I eventually had a kidney transplant . . . I was very scared I would die. I am very grateful and happy that I had this opportunity.

Id.

Since his kidney transplant in 2003, Mr. **** routinely visits the doctor for renal function evaluations and treatments. Id.; See also Exh. F. He takes prescription drugs for his kidney every day. See Exhs. A, G (Prescription Receipts). Mr. **** also struggles with his vision and is under the care of an optometrist for myopia. See Exhs. A, F.

Mr. **** entered the United States with fraudulent documents in 1989 and again in 1997. See Form I-192, Application for Advance Permission to Enter as Nonimmigrant; Exh. A. In 2000, he attempted to enter the United States and was apprehended by immigration officials. See Exh. A. A few days later, Mr. **** reentered the United States without inspection. Id. This was his last entry into the United States, and he has not left the country since then. Id. Mr. **** believes that he is inadmissible under INA Sections 212(a)(6)(A), 212(a)(6)(C)(I), 212(a)(7)(A)(I)(I), 212(a)(9)(B), and 212(a)(9)(C). Id. However, Mr. **** is eligible for and merits a waiver under INA § 212(d)(14).

His only criminal involvement resulted from driving under the influence of alcohol and being intoxicated in public. Id.; Exh. I (Copy of FBI Background Check results). In his declaration, Mr. **** states:

I am sorry that I drank and drove. I know that it is wrong. My father had left me when I was very young. It hurt me a lot emotionally and psychologically. I now realize that this is reason that I have a lot of sadness. I think this is the reason that I drank for many years. I was turning to alcohol to help me deal with my sadness. I am now in therapy and I am learning ways to better deal with sadness and not to turn to alcohol. I also know that alcohol is very bad for my health, and I know that I am lucky that I have a new chance at life with my new kidney. I want to have a happy and normal life.

Exh. A.

Since his last DUI, Mr. **** has participated in rehabilitative activities, including Alcoholics Anonymous and therapy. Id.; See also Exh. H (Copy of Report Cards from Free at Last Community Recovery and Rehabilitation Services). Mr. **** explains:

My therapist has helped me realize the reasons I drank in the past and how to move forward. I know that I will not drink again and I will have a good future. . . . I am sorry that I drank and drove, but I am committed to not drinking and having

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a physically and mentally healthy future.

Exh. A.

Mr. **** has demonstrated that he is making serious efforts to change his life and will suffer extreme hardship if he is not allowed to remain in this country. Id. In his declaration, he explains his reasons for wanting to stay in the United States:

I want to stay in the United States because my family is here. Also, my doctors, therapist, and support programs are here. I could not get these services in Mexico. I need medical treatment frequently. In addition, with the support programs and my therapist, I know that I can overcome my emotional and mental issues.

Id.; See also Exhs. E, F, H. Additionally, Mr. **** explains that he is afraid to return to Mexico because of the violence he fears he will suffer:

Just thinking about [returning to Mexico] makes me very scared. I am afraid that I will suffer violence like I suffered in Woodland, or worse, in Mexico, and I know the police will not be able to protect me as they do here in the United States.

Exh. A.

Mr. ****'s fears are not unfounded. See Exh. J (2013 U.S. Department of State Report); Exh. K (Article on Violence in Mexico). Mr. **** would face a life of danger in Mexico, and would not have access to equivalent medical treatment. See Exhs. J, K.

It is in the national and public interest that USCIS waive his grounds of inadmissibility, in light of the attached petition for U nonimmigrant status.

Thank you in advance for your assistance with this matter. Should you require any further information or documentation, please do not hesitate to contact my office at (650) 326-6440.

Sincerely,

Enclosures

cc: Mr. ****