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27 March 2021

Major Shawne Anderson
Raleigh Police Department
6716 Six Forks Rd
Raleigh NC 27615

RE: U visas and armed robberies

Dear Major Anderson:

I appreciate that Raleigh Police Department is looking into this issue. As previously discussed, I am respectfully requesting that Raleigh Police Department begins certifying armed robberies as "false imprisonments" for two reasons: first, North Carolina law actually supports the notion that all armed robberies constitute false imprisonments; and second, USCIS is granting U visas based on armed robbery.

To qualify for U-1 nonimmigrant classification, a petitioner must establish that he or she has suffered substantial physical or mental abuse as a result of having been the victim of qualifying criminal activity; possesses information concerning the qualifying criminal activity; and has been helpful, is being helpful, or is likely to be helpful to law enforcement authorities investigating or prosecuting the qualifying criminal activity. Section 101(a)(15)(U)(i) of the Act.

A "victim of qualifying criminal activity" is defined as an individual who has "suffered direct and proximate harm as a result of the commission of qualifying criminal activity." 8 C.F.R. § 214.14(a)(14). "Qualifying criminal activity" is "that involving one or more of the 28 types of crimes listed at section 101(a)(15)(U)(iii) of the Act or "any similar activity in violation of Federal, State, or local criminal law." Section 101(a)(15)(U)(iii) of the Act; 8 C.F.R. § 214.14(a)(9).

The statutory list of qualifying criminal activity in section 101(a)(15)(U)(iii) of the INA, 8 U.S.C. 1101(a)(15)(U)(iii), *is not a list of specific statutory violations, but instead a list of general categories of criminal activity. It is also a non-exclusive list.* Any similar activity to the activities listed may be a qualifying criminal activity.

New Classifications of Victims of Criminal Activity, Eligibility for "U" NonImmigrant Status, 72 Fed. Reg. 53,014, 53,018 (Sept. 17, 2007) (to be codified at 8 C.F.R. pts. 103, 212, 214, 248, 274a & 299 (emphasis added) (the "Interim Rule").

There is no statute in North Carolina making false imprisonment a crime, but it was a crime at common law, and the common law was adopted as the law of this State. N.C. Gen. Stat. § 4-1. False imprisonment is the illegal restraint of someone against their will. State v. Dix, 282 N. C. 490, 193 S. E. 2d 897 (1973). Armed robbery cannot be committed without some restraint of the victim. State v. Fulcher, 294 N.C. 503 (1978). Restraint is an inherent, inevitable feature of armed robbery. Id.; see also State v. Prevette, 317 N.C. 148, 157 (N.C. 1986) ("We recognize the fact that murder is not within that class of felonies, such as forcible rape and armed robbery, which cannot be committed without some restraint of the victim"); State v. Pigott, 331 N.C. 199, 210 (1992) ("We hold that all the restraint necessary and inherent to the armed robbery was exercised by threatening the victim with the gun.")

A "technical assault" is "always necessarily included in any robbery" People v. Dozier, 90 Cal.App.3d 174, 178 (Cal. Ct. App. 1979) (cited for persuasiveness) and a "technical assault is always committed with false imprisonment[.]" Fowler v. Valencourt, 334 N.C. 345, 348 (1993). For those reasons, even if the perpetrator is only charged with armed robbery, the cooperating victim remains eligible for a U visa based on the substantially similar offense of false imprisonment. See 8 C.F.R. 214.14(a)(9) ("The term 'any similar activity' refers to criminal offenses in which the nature and elements of the offenses are substantially similar to the statutorily enumerated list of criminal activities.")

Also, notwithstanding the literal language of the regulations, USCIS systematically grants U visas to victims of robbery. According to a USCIS FOIA release, in 2016, USCIS granted 130 U visas based on the crime of "Robbery". To the extent that Raleigh Police Department believes that the law on U visas and armed robberies is grey, it would be the best practice to nonetheless sign the otherwise eligible certifications and allow this issue to be elucidated by federal tribunals.

Feel free to contact me if you have any further questions or concerns about this inquiry. My cell phone number is (240) 418 6750 and my e-mail address is a.lebedev@lebedevesq.com

Sincerely,

/s/ Anton M. Lebedev
Law Offices of Anton M. Lebedev

Contact Information for Vermont Service Center

1. Please provide me the direct phone numbers for USCIS, Vermont Service Center, U visa division.

If you need to contact the VSC based on an inquiry for a case your client has on file with us you may do so via email HotlineFollowUpI918I914.VSC@uscis.dhs.gov or via phone 802-527-4888.

2. Please provide me the direct fax numbers for USCIS, Vermont Service Center, U visa division.

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Vermont Service Center U Visa Policies

1. Please provide me with your policy on issuing administrative subpoenas pursuant to 8 USC 1225(d) and 8 CFR 287.4 to investigate U visa cases. Please indicate whether you are authorized to issue an administrative subpoena upon the applicant's request. *With VSC counsel. Refer to Pete's email response.*

2. Please provide me with the policies on issuing Deferred Action (non-DACA) or Parole in Place (non-military) to prima facie eligible U visa applicants. Please indicate whether applicants are permitted to request a prima facie finding, Deferred Action, or Parole in Place if they have a prior removal order, are in immigration custody, or there are other exceptional circumstances.

Only Immigration and Customs Enforcement (ICE) can request a Prima Facie (UPFD) on a pending Petition for U Nonimmigrant Status (Form I-918). ICE contacts the Vermont Service Center (VSC) via a special email account to request UPFD. The VSC will pull the file and review the documentation to determine if there is a properly executed U Nonimmigrant Status Certification (Form I-918, Supplement B). The VSC also conducts the necessary system checks to ensure the petitioner of the Form I-918 is in immigration custody or has a final order of removal.

3. Please provide me with the policies on expediting the adjudication of U visa applications. Please indicate whether applicants are permitted to request their U visa application be expedited if they have a prior removal order, are in immigration custody, or there are other exceptional circumstances.

The VSC accepts expedite requests for Form I-918s from ICE based on the petitioner being held at the government's expense. A petitioner can request that their case be expedited based on other exceptional humanitarian circumstances. VSC will review the petitioner's expedite request and expedite the case if the request meets the humanitarian guidelines.

List of Designated Certifying Officials

2. If USCIS has a list of designated certifying officials, please provide me a list of all certifying officials in the State of North Carolina.

The VSC has a list of designated certifying officials, but the list is not all inclusive. The list is compiled from letters received from law enforcement agencies documenting who they have designated to sign U-visa law enforcement certifications. Not all agencies provide these letters, and therefore not all designated certifying officials will be included on the list. (See List attached)

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SCOPS will receive input from OCC-HQ on that question.

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State	Jurisdiction	Complete Name
North Carolina	Charlotte-Mecklenbur Police Department	Rodney MONROE
North Carolina	Charlotte-Mecklenbur Police Department	Carolyn DANAT
North Carolina	Charlotte-Mecklenbur Police Department	Michelle HUMMEL
North Carolina	Charlotte-Mecklenbur Police Department	Cecil BRISBON
North Carolina	Charlotte-Mecklenbur Police Department	Jacquelyn HULSEY
North Carolina	Charlotte-Mecklenbur Police Department	Coerte VOORHEES
North Carolina	Charlotte-Mecklenbur Police Department	Diego ANSELMO
North Carolina	Charlotte-Mecklenbur Police Department	Dave ROBINSON
North Carolina	Charlotte-Mecklenbur Police Department	Torri TELLIS
North Carolina	Charlotte-Mecklenbur Police Department	David POSTON
North Carolina	Charlotte-Mecklenbur Police Department	Rod GOLDING
North Carolina	Charlotte-Mecklenbur Police Department	Craig DAVIS
North Carolina	Charlotte-Mecklenbur Police Department	Michael SMATHERS
North Carolina	Charlotte-Mecklenbur Police Department	Paul ZINKMAN
North Carolina	Charlotte-Mecklenbur Police Department	Lisa GOELZ
North Carolina	Charlotte-Mecklenbur Police Department	Doug GALLANT
North Carolina	Durham District Attorney Office	A Leon STANBACK
North Carolina	Durham District Attorney Office	Brenda RIVERA
North Carolina	Durham District Attorney Office	Roger ECHOLS
North Carolina	Durham District Attorney Office	James DORNFIELD
North Carolina	Durham District Attorney Office	Shamieka RHINEHART
North Carolina	Durham District Attorney Office	Brian LEWIS
North Carolina	Durham District Attorney Office	Jacob BUMM
North Carolina	Durham District Attorney Office	Francis MIRANDA-WATKINS
North Carolina	Durham District Attorney Office	Phyllis TRANCHESE
North Carolina	Durham District Attorney Office	Angela GARCIA-LAMARCA
North Carolina	Mecklenburg County District Attorney Office	E. Andrew MURRAY
North Carolina	Mecklenburg County District Attorney Office	Robyn WITHROW
North Carolina	Mecklenburg County District Attorney Office	Barton MENSER
North Carolina	Wake County District Attorney Office	C Colon WILLOUGHBY
North Carolina	Wake County District Attorney Office	Howard CUMMINGS
North Carolina	Wake County District Attorney Office	Anna DAVIS
North Carolina	Wake County District Attorney Office	Jason WALLER
North Carolina	Wake County District Attorney Office	Mark STEVENS
North Carolina	Wake County District Attorney Office	Coleen JANSSEN
North Carolina	Wake County District Attorney Office	Jennifer GRAY

First Name	Last Name	Rank	Started	Finish
Rodney	MONROE	Chief of Police	Head	Head
Carolyn	DANAT	OA IV	POC	POC
Michelle	HUMMEL	Captain	6/8/2013	Present
Cecil	BRISBON	Captain	3/9/2013	Present
Jacquelyn	HULSEY	Captain	3/9/2013	Present
Coerte	VOORHEES	Captain	1/15/2011	Present
Diego	ANSELMO	major	3/27/2014	Present
Dave	ROBINSON	Lieutenant	6/24/2014	Present
Torri	TELLIS	Captain	7/1/2014	Present
David	POSTON	Captain	3/20/2008	6/8/2013
Rod	GOLDING	Captain	3/11/2010	3/9/2013
Craig	DAVIS	Captain	5/16/2009	3/9/2013
Michael	SMATHERS	Captain	11/22/2008	3/9/2013
Paul	ZINKMAN	Captain	3/20/2008	3/11/2010
Lisa	GOELZ	Captain	3/20/2008	5/16/2009
Doug	GALLANT	Captain	3/20/2008	11/22/2008
A. Leon	STANBACK	Head	Head	Head
Brenda	RIVERA	POC	8/1/2012	4/15/2014
Roger	ECHOLS	N/A	11/1/2010	Present
James	DORNFIELD	N/A	1/1/2008	Present
Shamieka	RHINEHART	N/A	1/1/2008	Present
Brian	LEWIS	N/A	1/1/2014	4/15/2014
Jacob	BUMM	N/A	1/1/2008	4/15/2014
Francis	MIRANDA-WATKINS	N/A	1/1/2008	7/31/2012
Phyllis	TRANCHESE	N/A	1/1/2008	3/31/2012
Angela	GARCIA-LAMARCA	N/A	1/1/2008	12/31/2011
E. Andrew	MURRAY	District Attorney	Head	Head
Robyn	WITHROW	Assistant DA	Unknown	Present
Barton	MENSER	Deputy DA	Unknown	Present
C. Colon	WILLOUGHBY	District Attorney	Head	Head
Howard	CUMMINGS	Assistant DA	Unknown	Present
Anna	DAVIS	Assistant DA	3/11/2014	Present
Jason	WALLER	Assistant DA	3/12/2014	Present
Mark	STEVENS	Assistant DA	3/13/2014	Present
Coleen	JANSSEN	Assistant DA	3/14/2014	Present
Jennifer	GRAY	Assistant DA	3/14/2014	Present

This data represents the number of cases filed with a grounds of felonious assault or robbery within the state of North Carolina. The data does not allow for the identification of a specific state criminal code match. An individual may have filed for more than one type of crime so this data may have duplicate individuals. The case outcome either granted or denied may or may not relate to the crime type.

U.S. Citizenship and Immigration Services I-918 Petition for U Nonimmigrant Status Approvals and Denials for Felonious Assault and Robbery within the State of North Carolina through July 7, 2016		
Crime	Granted	Denied
Felonious Assault	690	54
Robbery	130	D

Please note:

- 1) The report reflects the most up-to-date data available at the time the report is generated
- 2) Duplicate cases have not been removed, to ensure complete counts
- 3) The letter D represents data below a specific number threshold
- 4) Data represents all crimes with Felonious Assault and Robbery within the crime text - it may not necessarily match North Carolina crime law.
- 5) Individual may have other crimes listed besides felonious assault or robbery.

Data generated June 2, 2017

Report created June 2, 2017

System CIS Consolidated Operational Repository

Office of Performance and Quality (OPQ), Performance Analysis and External Reporting Branch (PAER) NP

Parameters:

Form Type I-918

Data Type Approvals and Denials

Date Range through July 7, 2016 date of the FOIA request