

At a motion hearing, a man was accused of assault and strangulation to his ex-girlfriend but is now claiming that the ex-girlfriend is fabricating the story because of her immigration status.

Giesi Jarrosay Cata, 31, was charged with two counts, one for aggravated assault, domestic violence and a second for kidnapping, domestic violence, according to court documents.

Cata had been accused of pushing Abigail Silva-Soto, Cata's now ex-girlfriend. He was also accused of grabbing Silva-Soto by her throat.

According to court documents, the Defendant admitted to pushing Silva-Soto on the bed only to keep her from hitting him, and he grabbed her by the arm as she was leaving to ask for his apartment key back.

Cata has argued that Silva-Soto has made up the story of him abusing and strangling her so she can have a chance at staying in the United States through a U-Visa.

A U-Visa is set aside for victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity, according to U.S. Citizenship and Immigration Services.

According to court documents, the State argues that the victim's immigration status is not relevant to whether Cata abused her. If, however, the victim had a motive to fabricate any part of her allegations because she was desperate to prevent being deported on a scheduled date, then the information is relevant impeachment evidence as evidence of the victim's then-existing state of mind (such as a motive, intent, or plan).

Amanda Ehredt, the state prosecutor, asked Judge Gus Aragon that any mention of immigration status could be precluded during the actual trial.

“Any mention of immigration status is prejudicial attack on the victim,” Ehredt said.

Judge Aragon agreed, allowing that the immigration status of Silva-Soto to not be mentioned during the trial.

“Parties are not to bring it up. No mention of victims immigration status unless asked by the court,” Aragon said.

According to court documents, the evidence doesn’t just imply that Silva-Soto had a motive to fabricate, it actually establishes the motive.

There is credible evidence that Silva-Soto had been trying to figure out ways to remain in the United States, according to court documents.

Cata also argues that Silva-Soto had plans on applying for a U-Visa because of hearing about it from a close friend and confiding in the friend about applying for one.

According to court documents, Silva-Soto and Cata’s common law sister-in-law, Abril Soto, were close friends. They spent a lot of time together while Silva-Soto was Cata’s girlfriend.

Silva-Soto told her about how she had similarly filed a criminal complaint against an ex-boyfriend to be able to apply for a U-Visa. Before Cata broke up with Silva-Soto and wanted her to move out of his apartment, Silva-Soto told Abril Soto in confidence that she wanted Cata to marry her or to get her pregnant so she could remain in the United States.

Silva-Soto’s statement to Abril Soto was an expression of her intent to violate federal law to remain in this country, according to court documents.

“We were told the State doesn’t have an application for Abigail Soto,” defense attorney Raymond Panzarella said. “Abigail was trying to get the new visa, [Cata], called the police.”

Ehredt explained to Judge Aragon that there isn't a motive to make up these crimes, there is hard evidence of the crimes of Cata. There is evidence of strangulation marks on Silva-Soto's throat, according to Ehredt.

According to court documents, Abril Soto will testify that Silva-Soto had expressed to her that she either alleged or considered alleging acts of domestic violence against her former boyfriend so she could remain in the United States.

Cata's trial begins on Nov. 13, 2019. Witnesses that can be called to testify at trial include Abigail Silva-Soto, Detective Robert C. Buller, Officer Anthony Hecht, both from the Tucson Police Department, Lauren Trench, a crime scene specialist, and Elsa Silva-Soto.