



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

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

In Re: 22483771

Date: AUG. 22, 2022

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse or Child of U.S. Citizen

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii). The Director of the Vermont Service Center denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition), and the matter is before us on appeal. The Administrative Appeals Office (AAO) reviews the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will remand the matter to the Director for issuance of a new decision.

**I. LAW**

Section 204(a)(1)(A)(iii)(I)(bb) of the Act provides that an individual who is the spouse of a U.S. citizen may self-petition for immigrant classification if they demonstrate, among other requirements, that they were “battered or subjected to extreme cruelty” perpetrated by the spouse during the marriage. This term includes, but is not limited to,

being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence.

8 C.F.R. § 204.2(c)(1)(iv).

The petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Although U.S. Citizenship and Immigration Services (USCIS) must consider “any credible evidence” relevant to a VAWA petition, we determine, in our sole discretion, the credibility of and weight given to that evidence. See section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

## II. ANALYSIS

The Petitioner, a native and citizen of the Dominican Republic, married E-E-C-<sup>1</sup>, a U.S. citizen, in [ ] 2016. They divorced in [ ] 2019. In October 2019, the Petitioner filed the instant VAWA petition based on this marriage.

The Director denied the VAWA petition, determining that the Petitioner had not established that he was subjected to battery or extreme cruelty by E-E-C- during the marriage. The Director explained that the record contained insufficient evidence that E-E-C-'s behavior constituted battery or extreme cruelty as defined by the regulations. The Director noted that the Petitioner's initial filing contained no evidence or statements to support his petition, and that subsequently, a request for evidence (RFE) was issued. The Petitioner's response to the RFE included a letter from his psychiatrist, third-party affidavits, and an untranslated personal statement. The Director explained that the third-party affidavits were vague and did not provide details regarding the alleged abuse, and that the letter from the Petitioner's psychiatrist noted that his wife abused him psychologically and financially. The psychiatrist also noted that the Petitioner claimed that E-E-C- exploited him financially and "began living like a single woman." The psychiatrist further stated that the Petitioner's wife acted in a controlling manner, threw "jealousy tantrums," and ultimately abandoned him. The Director noted that the letter from the psychiatrist did not go into detail regarding the alleged abuse or any other aspects of the marital relationship. Finally, the Director noted that it appeared the Petitioner submitted a personal statement in Spanish, with no English translation included, and therefore the Director did not consider this statement.

On appeal, the Petitioner submits a new personal statement in English, an additional letter from his psychiatrist, and copies of the same third-party affidavits submitted with his VAWA petition. In his updated personal statement, the Petitioner notes that he initially suffered only verbal abuse from E-E-C- beginning in January 2018. The Petitioner then recounts an incident around Halloween in 2018 where E-E-C- stayed out late without informing him, and when he questioned her on her arrival to the home, "she grabbed a broomstick and hit [him] with it multiple times yelling that [he] didn't have the right to say anything to her[,] that she owns [him] and [his] life here in the country[,] everything [he] [has] it's thanks to her and that anytime if she wants she can send [him] back to [his] country."

The record reflects that the Petitioner has submitted relevant evidence, namely his personal statement, that the Director has not had the opportunity to consider, and we will remand the matter to the Director to consider this evidence in the first instance and determine whether the Petitioner has established that he was subjected to battery or extreme cruelty and has satisfied the remaining eligibility requirements for immigrant classification under VAWA.

**ORDER:** The decision of the Director is withdrawn. The matter is remanded for further proceedings consistent with the foregoing analysis.

---

<sup>1</sup> We use initials to protect the identity of individuals.