



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

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

In Re: 16998311

Date: FEB. 9, 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 Abused Spouse or Child of U.S. Citizen (VAWA petition), concluding that the Petitioner did not establish he had been subjected to battery or extreme cruelty, as required. The matter is now before us on appeal. Upon *de novo* review, we will dismiss the appeal.

I. LAW

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in part, that they entered into the marriage with the U.S. citizen spouse in good faith and the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii) of the Act. Battery or extreme cruelty 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; and other abusive actions which may not initially appear violent but are a part of an overall pattern of violence. 8 C.F.R. § 204.2(c)(1)(vi).

The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Petitioners are "encouraged to submit primary evidence whenever possible," but may submit any relevant, credible evidence in order to establish eligibility. 8 C.F.R. § 204.2(c)(2)(i). U.S. Citizenship and Immigration Services (USCIS) determines, in our sole discretion, what evidence is credible and the weight to give to such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. ANALYSIS

In the Petitioner's initial declaration, he stated he met his spouse, E-T-,¹ in 1997, describing that they had been in a romantic relationship and had continued to be in contact every day even after she moved

¹ We use initials to protect the identities of the individuals in this case.

to the United States in 2010. He stated that in 2017, he entered the United States with a fiancé visa to marry E-T-, but soon after he arrived, she began trying to control him. He contended that E-T- told him to only go to work and nowhere else, and that although he had a credit card for groceries and transportation, she controlled all of their money. He explained that E-T- did not allow him to have any friends over to their apartment, told him he was ignorant, and cursed and insulted him. He claimed that E-T- went on trips by herself, including to Jamaica, London, Ethiopia, and other parts of the United States, which the Petitioner felt was to visit other people with whom she was having a relationship. According to the Petitioner, E-T- threatened him that he had no way of staying in the United States without her help and would not give him any information about his immigration case. In addition, the Petitioner maintained that during a talk with their priest about their relationship difficulties, E-T- confessed that she had been HIV-positive for many years. The Petitioner contended he had been having unprotected sex with her for years, but she never told him about her HIV infection.

The Director issued a request for evidence (RFE) seeking, among other things, additional documentation that the Petitioner was battered or subjected to extreme cruelty by E-T-. The Director noted that although the Petitioner claimed that E-T- financially controlled him, he also claimed to have his own credit card and access to a jointly held bank account. In addition, the Director found that the Petitioner had not provided any medical documentation to support his claim regarding E-T-'s HIV status, or other probative details regarding his contentions. The Director also discussed an affidavit from an individual, Y-W-, who claimed he met E-T- at the beginning of 2014; however, the Director stated that the record did not show that E-T- was in Ethiopia in 2014 and, therefore, it was unlikely Y-W- met E-T- in 2014 as asserted. The Director found that there was no indication Y-W- ever met E-T- or witnessed any of her alleged behavior.

In response to the RFE, the Petitioner submitted an additional declaration. He described having two friends from bible study who would sometimes come over when E-T- was not at home. On one occasion, his friend R-H- was there when E-T- came home from work early and E-T- yelled at the Petitioner and insulted him, saying, "I told you not to bring anyone here!" Regarding controlling his money, the Petitioner stated that his salary was transferred to their joint account, which E-T- removed and put into her own separate account. He attached a photo of his debit card, stating that his previous assertion that it was a credit card was erroneous. According to the Petitioner, the only access he had to money was with this debit card, which E-T- controlled by limiting funds in the account. In addition, the Petitioner explained that he did not tell anyone else about E-T-'s HIV status because of the shame and taboo surrounding it and because he did not want to disturb either of their lives by making that information public.

The Petitioner also submitted an additional statement from Y-W- and other friends. According to Y-W-'s new statement, he may have misremembered when he met E-T- and clarified that he may have met her in 2015. A letter from R-H- described that one time, when he was at the Petitioner's apartment, E-T- "clearly did not want [him] to be there, and looked at [him] very suspiciously." He stated that the Petitioner told him he was afraid of his wife and that it was clear she would not allow him to have friendships. Letters from other friends attested that the Petitioner told them that E-T- "did not allow him to go visit friends, or to have visitors at their apartment," that she "was frequently aggressive to him," and controlled his money.

The Director denied the petition, concluding that the Petitioner did not establish battery or extreme cruelty, as required. The Director found that the Petitioner's initial contention that E-T- did not permit him to have anyone over their apartment was contradicted by his latter assertion that he only had friends over when E-T- was not home. In addition, the Director found that the third-party affidavits did not sufficiently demonstrate the Petitioner has been subjected to battery or extreme cruelty by E-T-, noting that they all contained similar language and were not adequately corroborated by other relevant evidence in the record.

On appeal, the Petitioner argues that E-T- controlled his finances, sought to socially isolate him from forming friendships, and knowingly exposed him to HIV. He submits a copy of an unpublished decision from the Board of Immigration Appeals and a new declaration. In his declaration, the Petitioner provided additional details regarding the time R-H- visited him, explaining that they were eating breakfast when E-T- came home early from work. The Petitioner claimed he introduced her to R-H-, "and from her body language and facial expression she was not happy. [R-H-] left soon after that." The Petitioner explained that she yelled at him: "I told you not to bring anyone here! No more, not in my house. I don't want anyone to come." In addition, the Petitioner stated that there was no contradiction regarding having friends over, considering the timeline of events. He explained that E-T- went on trips later in their marriage, after they already had many arguments, and that he became more afraid of her than before. According to the Petitioner, after the argument about R-H-, and as time went on, he became afraid of inviting anyone over and even became afraid to continue having friendships. Regarding the financial control, the Petitioner stated he had an app on his phone that showed the status of the bank account, but E-T- took his phone every day, checked everything on his phone, and, after a certain point, the app no longer worked so he was unable to access his bank account information. He stated that if there was a way for him to continue to monitor and access his money at that time, he was not aware of it. He attested that E-T- controlled his money and his daily life, and that he had to follow her wishes and her rules.

After a careful review of the entire record, including the new evidence submitted on appeal, we do not find that the Petitioner established that he was battered or subjected to extreme cruelty perpetrated by E-T-. The record continues to lack any corroborating evidence regarding E-T-'s purported HIV status or the Petitioner's claim that she knowingly exposed him to HIV. Although the record shows that E-T- yelled at him, did not permit him to have friends over, and limited his ability to spend money, there is no allegation that E-T- ever battered him and we do not find that her behavior included actual or threatened violence, psychological or sexual abuse, or otherwise constituted extreme cruelty as that term is defined in 8 C.F.R. § 204.2(c)(1)(vi). There is no other evidence in the record, such as police reports, psychological reports, or medical reports to show that the Petitioner has been abused by E-T-. Accordingly, the Petitioner has not established that his spouse subjected him to battery or extreme cruelty during their marriage, as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act. The petition will remain denied.

ORDER: The appeal is dismissed.