



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

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

In Re: 21599737

Date: JULY 18, 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), and the matter is before us on appeal. Upon *de novo* review, we will remand this matter to the Director for further proceedings consistent with this decision.

**I. LAW**

A petitioner who is the spouse or former 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. Among other things, a petitioner must establish that they have resided with the abusive spouse. Section 204(a)(1)(A)(iii)(II)(dd) of the Act; 8 C.F.R. § 204.2(c)(1)(i)(D). The Act defines a residence as a person's general abode, which means their "principal, actual dwelling place in fact, without regard to intent." Section 101(a)(33) of the Act, 8 U.S.C. § 1101(a)(33). Although there is no requirement that a VAWA petitioner reside with their abuser for any particular length of time, a petitioner must show that they did, in fact, reside together. Section 204(a)(1)(A)(iii)(II)(dd) of the Act; 8 C.F.R. § 204.2(c)(1)(v). Evidence of joint residence may include employment, school, or medical records; documents relating to housing, such as deeds, mortgages, rental records, or utility receipts; birth certificates of children; insurance policies; or any other credible evidence. 8 C.F.R. § 204.2(c)(2)(iii).

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 this case, the Petitioner married G-J-B-<sup>1</sup>, a U.S. citizen, in [ ] 2018. She filed the instant VAWA petition in June 2019 based on a claim of battery and extreme cruelty by her U.S. citizen spouse. The Director denied the VAWA petition, concluding that the Petitioner did not establish she resided with her abuser spouse or that she married her U.S. citizen spouse in good faith, as required. Specifically, the Director determined that the Petitioner's affidavits lacked probative details regarding the couple's courtship, wedding ceremony, marital routines, or memorable experiences in their married life and therefore were insufficient to establish the Petitioner's good faith intentions in marrying G-J-B- and joint residence. The Director acknowledged the remaining relevant evidence in the record relating to the Petitioner's marital intentions and joint residence, including the marriage certificate and affidavits from third parties. However, the Director found that the supporting affidavits did not include sufficient detail or provide sufficient insight into the Petitioner's relationship dynamics with G-J-B- to overcome the deficiencies in the record. Accordingly, the Director determined that the referenced supporting evidence was also insufficient to establish the Petitioner's good faith intentions in entering into the marriage and joint residence with G-J-B-.

On appeal, the Petitioner submits a supplemental statement in which she provides additional information regarding her relationship with G-J-B- and her marital intentions. Specifically, the supplement statement provides additional details regarding the couple's courtship, marital life, and shared domestic and social life together.

This new evidence on appeal is material as it directly relates to the Director's finding that the Petitioner had not provided sufficient, probative details and evidence that she married G-J-B- in good faith and resided with him. As the Director has not had an opportunity to review the new document submitted on appeal, we will remand the matter to the Director to consider this evidence in the first instance and determine whether the Petitioner has satisfied the remaining eligibility requirements for immigrant classification under VAWA.

**ORDER:** The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

---

<sup>1</sup> We use initials to protect the identities of the individuals in this case.