



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

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

In Re: 19162620

Date: JUN. 14, 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 that she was battered or subjected to extreme cruelty perpetrated by her U.S. citizen spouse during the qualifying relationship. The matter is now before us on appeal. On appeal, the Petitioner submits additional evidence and asserts her eligibility.

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 for further proceedings consistent with this decision.

I. LAW

A VAWA petitioner who is the spouse or ex-spouse of a United States citizen may self-petition for immigrant classification if the petitioner demonstrates that they entered into the marriage with a United States citizen spouse in good faith and that during the marriage, the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii)(I) of the Act; 8 C.F.R. § 204.2(c)(1)(i). In addition, petitioners must show that they are eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, resided with the abusive spouse, and are a person of good moral character. Section 204(a)(1)(A)(iii)(II) of the Act; 8 C.F.R. § 204.2(c)(1)(i).

U.S. Citizenship and Immigration Services (USCIS) shall consider any credible evidence relevant to the VAWA petition; however, the definition of what evidence is credible and the weight that USCIS gives such evidence lies within USCIS' sole discretion. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). 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).

II. ANALYSIS

The record reflects that the Petitioner, a native and citizen of the Philippines, married J-L-¹ a U.S. citizen, in [] 2014 and filed the instant VAWA petition based on this marriage in April 2017.

The Director denied the VAWA petition, determining that the Petitioner had not demonstrated that J-L- subjected her to battery or extreme cruelty during their marriage. The Director indicated that the Petitioner's personal statements were vague and did not describe specific instances of battery or extreme cruelty inflicted by her spouse in sufficient detail. The Director further noted that the additional evidence also did not provide substantive, probative information indicating that the Petitioner was subjected to actual threats, controlling actions, or other abusive behavior that was part of a cycle of psychological or sexual violence.

On appeal, the Petitioner provides an updated self-affidavit with further details about her relationship with J-L-. In the updated statement, the Petitioner provides new probative details concerning the psychological abuse she endured from J-L- during their marriage. She argues that the additional facts, as outlined in the self-affidavit, are sufficient to establish that J-L- subjected her to battery or extreme cruelty as contemplated by the Act and relevant regulations. *See* 8 C.F.R. § 204.2(c)(1)(vi) (stating that battery or extreme cruelty “includes, but is not limited to, being a victim of any act or threatened act of violence . . . which results or threatens to result in physical or mental injury. . . . [A]busive 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.”).

Because the new evidence submitted on appeal is material to the Director's grounds for denial of the VAWA petition, we will remand this matter to the Director to consider this evidence in the first instance and redetermine whether the Petitioner has established her eligibility for immigrant classification under VAWA. This remand is based solely on the submission of new evidence not previously before the Director. We do not assess whether the Petitioner has otherwise met her burden of proof to establish eligibility.

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

¹ We use initials to protect the privacy of individuals.