



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

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

In Re: 18802102

Date: MAY 25, 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 in the Immigration and Nationality Act (the Act) at section 204(a)(1)(A)(iii), 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). The matter is now before us on appeal. On appeal, the Petitioner submits additional evidence and asserts his eligibility. The Administrative Appeals Office reviews the questions in this matter *de novo*. *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will remand this matter for further proceedings consistent with this decision.

I. LAW

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if they demonstrate they entered into the marriage in good faith and were battered or subjected to extreme cruelty perpetrated by the spouse. Section 204(a)(1)(A)(iii)(I) of the Act. The petitioner must also 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. 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). While we must consider any credible evidence relevant to the VAWA self-petition, we determine, 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

The Petitioner, a native and citizen of Ghana, filed the instant VAWA petition in December 2016 based on his marriage to a U.S. citizen, N-Y-.¹ The Director denied the petition, concluding that the Petitioner did not establish that he was battered or subjected to extreme cruelty perpetrated by his U.S. citizen spouse, that he demonstrated the requisite qualifying relationship, or that the marriage itself was valid based upon his submission of an altered marriage certificate purportedly issued by the [redacted] [redacted] New York Clerk's Office. The Director explained that after a full review of the Petitioner's administrative file and contact with the [redacted] Clerk's Office, the entity responsible for the

¹ Initials are used to protect the identities of individuals.

issuance of marriage certificates in [] it was confirmed that the marriage certificate submitted was fraudulent.

On appeal, the Petitioner reiterates—as he has stated previously in this matter—that he did not know that the marriage certificate he submitted was not valid. The Petitioner submits another marriage certificate on appeal, documenting his marriage to N-Y- and confirmed to be legitimate. The Petitioner asserts that, through the submission of a valid marriage certificate on appeal, he has overcome the Director’s grounds for denial of his petition and established his eligibility under VAWA.

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 his 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 his burden of proof to establish eligibility.

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