



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

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

In Re: 18254073

Date: MAY 26, 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 dismiss the appeal.

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).

In addition, petitioners must show that they are a person of good moral character. Section 204(a)(1)(A)(iii)(II) of the Act. Primary evidence of good moral character is the VAWA self-petitioner’s affidavit, which should be accompanied by local police clearances or state-issued criminal background checks from where the petitioner resided during the three years before filing the VAWA petition. 8 C.F.R. § 204.2(c)(2)(v).

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 U.S. Citizenship and Immigration

Services (USCIS) must consider any credible evidence relevant to the VAWA 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 is a native and citizen of Honduras who filed his VAWA petition in April 2019 based on his marriage to E-Y-T-N-,¹ a U.S. citizen. The Director denied the VAWA petition, determining that the Petitioner had not established that he was subjected to battery or extreme cruelty by E-Y-T-N- during the marriage or that he was a person of good moral character.²

In considering the VAWA petition, the Director reviewed the whole of the evidence in the record, namely a psychological evaluation, and found it to be insufficient because it indicated marital incompatibilities rather than battery or extreme cruelty. Therefore, the Director issued the Petitioner a request for evidence (RFE), noting that additional evidence was required to demonstrate that he had been subjected to battery or extreme cruelty. In the RFE, the Director provided examples of the types of evidence the Petitioner could submit to demonstrate that he had been subject to battery or extreme cruelty, including reports from the police, judges, medical personnel, and others; evidence that the Petitioner had sought refuge in a shelter for the abused; photographs of injuries; police reports; psychological evaluations or counseling reports; or medical reports. In response to the RFE, the Petitioner did not provide additional evidence to establish this requirement.

On appeal, the Petitioner, through counsel, contends that the Director ignored the details in the psychological evaluation, which shows that the Petitioner suffered verbal, emotional, and psychological abuse, and that these acts caused the Petitioner to suffer from depression, post-traumatic stress disorder (PTSD), anxiety disorder, and adjustment disorder. The Petitioner again does not provide any additional evidence to meet this requirement.

We acknowledge the psychological evaluation in the record and that it indicates that the Petitioner suffers from depression, PTSD, anxiety disorder, and adjustment disorder. The evaluation also indicates E-Y-T-N- was very jealous and she would call the Petitioner over 30 times a day and that she lied to him about their son being his biological child. However, upon *de novo* review, the Director correctly determined that the Petitioner has not established that E-Y-T-N- subjected him to battery or extreme cruelty. E-Y-T-N-'s jealousy and unfaithful behavior, while unfortunate, does not fit within any of the conduct described at 8 C.F.R. § 204.2(c)(1)(iv). The record lacks detail about any specific behaviors by E-Y-T-N- that are encompassed within the regulatory definition of "subjected to battery or extreme cruelty." We do not question the psychological evaluation's indication that E-Y-T-N-'s actions contributed to the Petitioner's diagnoses; nonetheless, battery or extreme cruelty contemplates

¹ Initials are used to protect the privacy of individuals.

² As explained below, the Petitioner has not submitted sufficient evidence to establish that E-Y-T-N- subjected him to battery or extreme cruelty during their marriage. Accordingly, we decline to reach and hereby reserve the Petitioner's arguments regarding whether he is a person of good moral character. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

acts or threatened acts of violence resulting in physical or mental injury, psychological or sexual abuse or exploitation, or other abusive actions that are a part of an overall pattern of violence. 8 C.F.R. § 204.2(c)(1)(iv). The Petitioner has not satisfied his burden to demonstrate that E-Y-T-N- subjected him to battery or extreme cruelty during their marriage as contemplated by the regulations. *See Matter of Chawathe*, 25 I&N Dec. 375-76 (explaining that a petitioner must establish that they meet each eligibility requirement by a preponderance of the evidence and that in determining whether a petitioner has satisfied their burden, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence).

III. CONCLUSION

The Petitioner has not demonstrated that E-Y-T-N- inflicted or threatened violence against him, psychologically or sexually abused or exploited him, or engaged in other abusive actions that were part of an overall pattern of violence as contemplated by 8 C.F.R. § 204.2(c)(1)(vi). Therefore, the Petitioner is ineligible for VAWA classification because he has not established that his U.S. citizen spouse battered or subjected him to extreme cruelty.

ORDER: The appeal is dismissed.