



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

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

In Re: 21340564

Date: MAY 31, 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 a brief asserting her 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 dismiss the appeal.

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 China, married R-A-,¹ a U.S. citizen, in [] 2016, and filed her VAWA petition in June 2019. In her VAWA petition, the Petitioner claimed to have resided with R-A- from April 2016 to June 2019. In denying the VAWA petition, the Director determined that the Petitioner did not establish that she was battered or subjected to extreme cruelty by R-A-, that she entered into marriage with him in good faith, or that she resided with him.

First, we will address the Petitioner's claim that she was battered or subjected to extreme cruelty by R-A-. With her VAWA petition, the Petitioner submitted a personal statement, text messages

¹ We use initials to protect individual identities.

allegedly with R-A-, a statement from a friend, and a psychological evaluation. The Director found this evidence insufficient and issued a request for evidence (RFE), asking for additional evidence that the Petitioner was battered or subjected to extreme cruelty by R-A-. In response to the RFE, the Petitioner submitted an additional statement and an updated psychological evaluation. The Director reviewed the Petitioner's two statements in detail, noting that they included references to R-A- losing his temper due to her driving errors, requesting money from her, and bouncing checks from their joint bank account. The Director acknowledged that while the Petitioner may have been in an unhealthy relationship, marital tensions and incompatibilities such as apathy towards the relationship by one party, name calling, and dishonesty do not by themselves constitute extreme cruelty. The Director determined that the Petitioner provided insufficient probative details of any specific incidents that would indicate R-A- attempted to intimidate, socially isolate, or exercise possessiveness over her, or that he otherwise attempted to control or achieve compliance from her through psychological means.

The Director addressed the text messages which dealt with requests for money, immigration issues, and divorce. The Director mentioned there is no identifiable evidence to support who sent the messages and they were insufficient to establish battery or extreme cruelty. The Director also discussed in detail the Petitioner's friend's statement, which referenced financial requests by R-A-, offensive language while he was drunk, and threats of divorce. The Director noted that the statement relayed information by the Petitioner, and also that the actions of R-A- did not constitute battery or extreme cruelty absent additional evidence. Lastly, the Director discussed the Petitioner's initial psychological evaluation and updated one, noting the Petitioner has been the target of emotional, financial, and mental manipulation by R-A-. However, the psychologist did not provide substantive, probative information indicating the Petitioner was subject to actual threats, controlling actions, or other abusive behavior that was part of a cycle of psychological or sexual violence. Based on a thorough review of the record, the Director determined that the Petitioner did not establish that she was battered or subjected to extreme cruelty by R-A-.

On appeal, the Petitioner asserts that the Director failed to recognize the abuse she suffered and downplayed the evidence submitted. The Petitioner refers to her psychological evaluations and statements as evidence of psychological and emotional abuse by R-A-. She further states that there is no requirement that she experience physical harm, and R-A- abused alcohol, emotionally abused and manipulated her, verbally degraded her, and was excessively argumentative. In addition, the Petitioner states that the Director ignored threats R-A- made about her immigration status, and his financial abuse through expenses on alcohol and account overdrafts. Finally, the Petitioner claims that she provided financial support to R-A- due to her cultural belief that she was required to, and her psychological evaluation reflects that her cultural background played a large part in how R-A- was able to harm her.

Based on a *de novo* review of the record below, we adopt and affirm the Director's decision in part. *See, e.g., Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994) (noting that the "independent review authority" of the Board of Immigration Appeals (Board) does not preclude adopting or affirming the decision below "in whole or in part, when [the Board is] in agreement with the reasoning and result of that decision"); *see also Chen v. INS*, 87 F.3d 5, 7-8 (1st Cir. 1996) (noting that, "[a]s a general proposition, if a reviewing tribunal decides that the facts and evaluative judgments prescinding from them have been adequately confronted and correctly resolved by" the decision below, "then the

tribunal is free to simply adopt those findings” provided the tribunal’s order reflects individualized attention to the case”).

The Director’s decision thoroughly discussed relevant evidence submitted by the Petitioner related to her claims that she was battered or subjected to extreme cruelty by R-A-. While the Petitioner’s brief includes claims that the Director failed to recognize the abuse she suffered and downplayed the evidence submitted, the Director specifically addressed the evidence presented, including her statements, her friend’s statement, psychological evaluations, and text messages. The Director discussed the harm the Petitioner experienced in her marriage, including the issues she has raised on appeal related to emotional, psychological, and financial harm, and threats to her immigration status. The Director included reasons why the evidence was insufficient. The Petitioner has not provided any new evidence on appeal to address the insufficiencies in the evidence listed by the Director or any other relevant new evidence. As the Director correctly determined that the Petitioner did not establish that she was battered or subjected to extreme cruelty by R-A-, and she has not provided new evidence on appeal to overcome this finding, she has not established by a preponderance of the evidence that she has met this requirement. Therefore, the Petitioner has not established her eligibility for immigrant classification as an abused spouse of a U.S. citizen under VAWA.

As we determined that the Petitioner has not established by a preponderance of the evidence that she was battered or subjected to extreme cruelty by R-A-, we decline to reach and hereby reserve the Petitioner’s arguments that she entered into marriage with him in good faith or resided with him. *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).

ORDER: The appeal is dismissed.