



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

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

In Re: 22954325

Date: NOV. 30, 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 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.

The petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). 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). U.S. Citizenship and Immigration Services (USCIS) must consider “any credible evidence” in a VAWA petition; however, we determine, in our sole discretion, the credibility of and the weight to give that evidence. See 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 El Salvador, filed the instant VAWA petition in November 2019 based on his marriage to U.S. citizen spouse, P-.<sup>1</sup> The Petitioner married P- on [REDACTED] 2017 who subsequently died [REDACTED] on June 10, 2017. The record before the Director contains an initial self-affidavit by the Petitioner regarding his claim of abuse by P-, an additional self-affidavit in response to the Director's request for evidence (RFE), a law enforcement incident report dated 2010, and medical records regarding P-'s death. The medical records indicate that P-'s death was a suicide and that she had a history of psychiatric illness and psychiatric hospitalization.

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<sup>1</sup> We use initials to protect the privacy of individuals.

The Director denied the petition, determining that the Petitioner had not demonstrated that he had been battered by, or been the subject of extreme cruelty, by a U.S. citizen spouse during their qualifying relationship, as required. The Director determined that the Petitioner's self-affidavits were vague and insufficient regarding his claim of abuse by P- and instead indicated that the abuse had taken place prior to the marriage. The Director also acknowledged the submission of a law enforcement incident report and medical reports, but similarly found that they were not sufficient to show that P- had subjected the Petitioner to abuse while they were married.

On appeal, the Petitioner submits a brief and a copy of his RFE affidavit. He reiterates his claim of VAWA eligibility and contends that he has submitted sufficient evidence of the abuse he experienced during his marriage to P-. The Petitioner has not overcome the reasons for the Director's denial on appeal.

VAWA self-petitioners are required by demonstrate that they were battered or subjected to extreme cruelty perpetrated by the spouse during the marriage. Section 204(a)(1)(A)(iii)(I)(bb) of the Act. In these proceedings, the Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon *de novo* review, we agree that the record is insufficient to show that P- subjected the Petitioner to battery or extreme cruelty during the brief period that they were married. While the Petitioner's initial self-affidavit described P-'s abusive behavior towards the Petitioner during their relationship, including while they lived together, it did not indicate the dates of the incidents of claimed battery and extreme cruelty, nor did it describe any such incidents as taking place after their marriage. The Petitioner's RFE affidavit, in support of his claim of abuse by P- during their marriage, described that after their wedding, P- yelled at the Petitioner that she heard voices in her head telling her to kill herself, which was then followed by P-'s suicide. We acknowledge the impact of these events on the Petitioner, as well as the claim of abuse in the relationship prior to the marriage. However, the Petitioner's statements about these events do not indicate that P-'s suicide or serious mental health problems were part of a pattern of abusive behavior toward the Petitioner that continued after they were married. The record as a whole does not establish by a preponderance of the evidence that P- battered or subjected the Petitioner to extreme cruelty during their marriage.

In conclusion, the Petitioner has not established that P- subjected him to battery or extreme cruelty during their marriage, as required. Consequently, he has not demonstrated that she is eligible for VAWA classification.

**ORDER:** The appeal is dismissed.