



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

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

In Re: 24283266

Date: FEB. 15, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse of U.S. Citizen or Lawful Permanent Resident

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. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review 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.

A petitioner who is the spouse of a U.S. 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).

In August 2018, the Petitioner, a citizen and native of Japan, timely filed her VAWA petition based upon her marriage to D-S-R-, her former U.S. citizen spouse.¹ The Director denied her VAWA petition, concluding that the Petitioner had not established her joint residence with D-S-R-. On appeal, the Petitioner submits a brief and a second supplemental statement. She also provides copies of the personal statements, photographs, bank statements, and life insurance, all of which were addressed in the Director's decision. The Petitioner contends that the Director erred in concluding that she had not shared a residence with D-S-R-. We disagree. With the Director, we note that the record contains inconsistencies with regard to the Petitioner's joint residence with D-S-R-. On her VAWA petition, the Petitioner attested that she resided with D-S-R- from December 2015 to July 2017; in her personal statements and in the psychological evaluation below, she also indicated that she moved in with

¹ The record reflects that the Petitioner's marriage to D-S-R- was legally terminated in 2018, within two years of the date she filed her VAWA petition.

D-S-R- in December 2015. However, we also note several discrepancies between what she attested on her VAWA petition and information derived from an independent investigation into her marriage with D-S-R-.² During this investigation the Petitioner told the USCIS officer that D-S-R- had moved into the [redacted] apartment in October or November of 2016, inconsistent with the attestation on her VAWA petition and her statement in her psychological evaluation that she resided with D-S-R- beginning in December 2015 and her explanation to the officer. The Petitioner explained this below by stating that she was intimidated by the USCIS officer's tactics and that she spoke with the officer on the day after a visit to a local emergency room. Further, as the Director noted, the record below included a lease for the [redacted] residence from August 2015 to August 2017, and executed by both the Petitioner and D-S-R- on October 1, 2015. The date of the lease signing is inconsistent with the Petitioner's supplemental statement explaining that she asked D-S-R- to move in with her around Halloween, almost one month after she and D-S-R- signed this lease. Further, this explanation is inconsistent with what she told the USCIS officer in the course of the investigation, as noted above.

The remainder of the record, as supplemented on appeal, is insufficient to address these discrepancies. The joint bank statements are dated from August 2016, two months before the Petitioner indicated to the USCIS officer that she moved in with D-S-R-, and eight months after she attested on her VAWA petition that she began residing with him. The photographs provided on appeal, which are copies of those in the record below, are of the Petitioner and D-S-R-, and do not include images of their joint residence. Finally, the Petitioner's statement provided on appeal reiterates that D-S-R- moved into her apartment in December 2015 and does not include an explanation for the discrepancies noted in the Director's decision. It is the petitioner's burden to establish, by a preponderance of the evidence, eligibility for the classification sought. *Matter of Chawathe*, 25 I&N Dec. 369 at 375-76. Here, as the Petitioner has not offered evidence sufficient to address the above-identified discrepancies, she has not met her burden to demonstrate, by a preponderance of the evidence, the requisite joint residence with her former U.S. citizen spouse.

The Director also denied the VAWA petition on the ground that the Petitioner had not established that she entered into her marriage with good faith intentions. However, as the Petitioner has not demonstrated her requisite joint residence with D-S-R-, we decline to reach and hereby reserve these arguments. 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.

² The Director advised the Petitioner of this investigation in a request for evidence (RFE) issued prior to the adverse decision.