



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

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

In Re: 23607935

Date: JAN. 17, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse or Child of Lawful Permanent Resident

The Petitioner seeks immigrant classification as an abused spouse of a lawful permanent resident (LPR) under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(B)(ii). The Director of the Vermont Service Center denied the Form I-360, Petition for Abused Spouse or Child of Lawful Permanent Resident (VAWA petition), concluding that the Petitioner had not demonstrated that his LPR spouse subjected him to battery or extreme cruelty, as required. The matter is now before us on appeal. On appeal, the Applicant submits a statement and additional evidence. We review 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

A petitioner who is the spouse of an LPR may self-petition for immigrant classification if the petitioner demonstrates that, during the marriage, the petitioner, or their child, was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(B)(ii)(I)(bb) of the Act; 8 C.F.R. § 204.2(c)(1)(i)(E).

“[B]attered or subjected to extreme cruelty” 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)(vi). To establish battery or extreme cruelty, a petitioner may submit evidence such as: police reports; records from a court, school, church, shelter, or social service agency; photographs; affidavits; or any other credible evidence. 8 C.F.R. § 204.2(c)(2)(iv).

U.S. Citizenship and Immigration Services (USCIS) shall consider any credible evidence relevant to the VAWA petition; however, the definition of what evidence is credible and the weight that USCIS gives such evidence lies within USCIS' sole discretion. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). The petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.14(c)(4); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Petitioner, a native and citizen of Peru, married M-S-R-¹ an LPR, in [REDACTED] 2013. He filed this VAWA petition based on his marriage to M-S-R- in March 2017. In considering the VAWA petition, the Director reviewed the evidence in the record, including a personal statement from the Petitioner, psychiatric and psychological evaluations, undated photographs, and third-party statements briefly acknowledging the Petitioner's relationship to M-S-R-.

The Director denied the VAWA petition because the Petitioner had not demonstrated that his LPR spouse subjected him to battery or extreme cruelty, as required. Specifically, the Director determined that the evidence did not establish M-S-R-'s behavior during their marriage included battery or other violence directed at the Petitioner or that her behavior was part of an overall pattern of violence that would generally constitute extreme cruelty for immigration purposes.

In his statement before the Director, the Petitioner stated that, after they were married, M-S-R- expected him to pay for things, buy her clothes and shoes, pay for her to do her hair and nails, and send money to Cuba for her parents and eldest son, even if he didn't have the money to do so. He stated that when he would confront her about not having enough money for the things she wanted, she would yell at him, call him names, and make him sleep on the couch. He recalled several instances where M-S-R- yelled at him in public when he could not or would not pay for the items she wanted to buy and would later make him sleep on the couch. He also recounted the times when she was lying to him about where she was going during her lunch break, until one day when he found her in their home with another man upon arriving home early from work. We also acknowledge previously submitted evidence in the record, including the Petitioner's statement, third-party statements, and his psychiatric and psychological evaluations, which indicate that the Petitioner has been diagnosed with conditions including post-traumatic stress disorder (PTSD) and major depressive disorder and faced difficult personal circumstances related to the breakdown of his marriage.

Upon de novo review, however, we find that the Director correctly determined that the evidence in the record does not establish M-S-R-'s behavior during their marriage included battery or other violence directed at the Petitioner or that her behavior was part of an overall pattern of violence that would generally constitute extreme cruelty for VAWA eligibility purposes. M-S-R-'s financial and personal irresponsibility and lack of commitment to the Petitioner, as described in the Petitioner's statements and psychological evaluation, does not fit within any of the conduct described at 8 C.F.R. § 204.2(c)(1)(vi). Additionally, the Petitioner's written statements and psychological evaluation do not indicate that M-S-R- inflicted or threatened battery or violence against him or sexually abused or exploited him, and although they refer to insulting language by M-S-R-, they do not contain sufficient

¹ We use initials to protect the privacy of individuals.

probative detail regarding the underlying incidents briefly referenced where M-S-R- used insulting language to establish that she psychologically abused him or otherwise engaged in any other abusive actions that were part of an overall pattern of violence constituting extreme cruelty. The third-party statements from friends and neighbors simply acknowledge knowing the couple, but lack information regarding knowledge of any specific behaviors by M-S-R- that are encompassed within the regulatory definition of “subjected to battery or extreme cruelty.” As such, even if M-S-R-’s actions contributed to the Petitioner’s diagnoses, the Petitioner has not satisfied his burden to demonstrate that M-S-R- subjected him to battery or extreme cruelty during their marriage. See *Matter of Chawathe*, 25 I&N Dec. at 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).

On appeal, the Petitioner submits a supplemental statement summarizing his previous statement in the record and reiterating that he was not just a victim of infidelity, but of financial and emotional abuse. The Petitioner specifically states that he was controlled, humiliated, and verbally abused for financial and emotional control by his LPR spouse. He also submits appointment reminders for his psychiatric visits and pharmacy prescription with descriptions of the medication as evidence that M-S-R- emotionally abused him, as well as pay stubs from his two employers, his credit report from March 2022, receipts for money and packages sent to M-S-R-’s family in Cuba, and additional credit card bills as evidence that M-S-R- financially abused him. In his statement on appeal, the Petitioner argues that he was a victim of extreme and exceptionally cruel financial abuse and emotional abuse by M-S-R- and asserts that the credit report shows the number of accounts opened during the marriage, the credit card bills show joint accounts that he is still paying, and his pay stubs show that he was working two low-paying jobs to pay for the debt M-S-R- was accumulating and expected him to pay. The Petitioner’s evidence submitted on appeal does not overcome the Director’s determination. Although the Petitioner contends that evidence submitted on appeal demonstrates that M-S-R- subjected him to emotional and financial abuse, the appointment reminders and medication prescriptions provided are not sufficient to demonstrate that the Petitioner was being treated for any conditions directly related to emotional abuse by his LPR spouse, and likewise, his general assertion that his spouse’s opening of credit cards and joint accounts during the marriage or her shopping habits, are also not sufficient to show financial abuse by his spouse during the marriage. Accordingly, M-S-R-’s actions, as detailed by the Petitioner in his statements and psychological evaluation, including her asking him to send money and packages to her family in Cuba or becoming angry with him and belittling him when he did not have enough money to buy her things, do not establish an overall pattern of violence or psychological abuse or fit within any of the conduct described at 8 C.F.R. § 204.2(c)(1)(vi).

For these reasons, the Petitioner has not established that he was subjected to battery or extreme cruelty by his U.S. citizen spouse during the marriage, as required. Consequently, the Petitioner has not demonstrated his eligibility for immigrant classification under VAWA.

ORDER: The appeal is dismissed.