



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

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

In Re: 18666552

Date: OCT. 12, 2022

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Parent of U.S. Citizen

The Petitioner seeks immigrant classification as an abused parent of a U.S. citizen under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(A)(vii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(vii). The Director of the Vermont Service Center (the Director) denied the Form I-360, Petition for Abused Parent of U.S. Citizen (VAWA petition), and the matter is before us on appeal. Upon *de novo* review, we will remand the appeal for proceedings consistent with this decision.

I. LAW

A petitioner who is the parent of a U.S. citizen may self-petition for immigrant classification under VAWA if the petitioner demonstrates, among other requirements, that they were battered or subjected to extreme cruelty perpetrated by the child and have resided with the child. Evidence showing that the petitioner and the abusive child resided together may include employment records, utility receipts, school records, hospital or medical records, deeds, mortgages, rental records, insurance policies, affidavits, or any other type of relevant credible evidence of residency. 8 C.F.R. § 204.2(c)(2)(i), (iii). While we 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).

The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 376 (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).

II. ANALYSIS

The Petitioner, a native and citizen of Mexico, filed her VAWA petition in October 2018 based on abuse suffered from her son, F-P-S-, a U.S. citizen.¹ Following initial review of her VAWA petition, the Director issued a Request For Evidence (RFE) in June 2020, in which the Director notified the Petitioner that the evidence provided was insufficient to establish that she shared a residence with

¹ We use initials to protect the privacy of individuals.

F-P-S- after he reached 21 years of age. The Petitioner provided a response, in which she included additional documentation regarding her shared residence with F-P-S-; however, the Director denied the petition, determining that the Petitioner had not established she shared a residence with F-P-S- after F-P-S- had reached 21 years of age.

On appeal, the Petitioner submits a brief and additional evidence. In her brief, the Petitioner correctly argues that there is no requirement in the VAWA law or regulations that requires a self-petitioning parent to reside with the abusive child after the abusive child reaches 21 years of age. As noted in the USCIS Policy Manual, “[s]elf-petitioners must have resided with the abuser *at any point prior to filing* the self-petition or reside with the abuser when they file the self-petition. The self-petitioner is not required, however, to have resided with the abuser for *any specific length of time*, to have resided with the abuser in the United States, or to have resided with the abuser during the qualifying relationship” (emphasis added). 3 *USCIS Policy Manual*, D.2(F), <https://www.uscis.gov/policymanual>. The Director erred in determining that the Petitioner was required to prove that she resided with F-P-S- after he reached 21 years of age. With her appeal, the Petitioner has sufficiently supplemented the record with additional evidence to determine, by a preponderance of the evidence, that she resided with her abusive child. As such, we withdraw the Director’s determination that she did not share a residence with F-P-S-.

The Director further indicated in the decision that the record lacked sufficient evidence to establish that the Petitioner is a person of good moral character. The Petitioner has provided an argument on appeal; however, the Director’s decision did not address this requirement in detail and appears to have reserved the issue. As the Petitioner has overcome the basis of the Director’s denial, we will remand the matter to the Director to determine whether the Petitioner has established that she is a person of good moral character and satisfied the remaining eligibility requirements for immigrant classification under VAWA.

ORDER: The decision of the Director is withdrawn. The matter is remanded for consideration of new evidence and issuance of a new decision.