



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

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

In Re: 19976202

Date: APR. 28, 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 child of a U.S. citizen under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(A)(iv) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iv). The Director of the Vermont Service Center denied the Petitioner's Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition). The Petitioner filed an appeal of that decision to our office. 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 remand the matter to the Director.

## I. LAW

A petitioner may be eligible for immigrant classification under VAWA as the child of a U.S. citizen if they demonstrate, among other requirements, that the U.S. citizen parent subjected them to battery or extreme cruelty. Section 204(a)(1)(A)(iv) of the Act. "Child" is defined, as relevant here, as an unmarried person under 21 years of age who is "a stepchild, whether or not born out of wedlock, provided the child had not reached the age of 18 years at the time the marriage creating the status of stepchild occurred." Section 101(b)(1)(B) of the Act. If the petitioner does not file the VAWA petition before attaining 21 years of age, the VAWA petition shall nonetheless be treated as having been filed before such time if the petitioner files the VAWA petition before attaining 25 years of age and demonstrates that the abuse was at least one central reason for the delay in filing. Section 204(a)(1)(D)(v) 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 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 is a native and citizen of Honduras who filed this VAWA petition in August 2019, based on her relationship with her mother, a U.S. citizen. Upon review of the evidence, the Director

noted that the Petitioner filed the VAWA petition when she was beyond 25 years of age. The Director therefore denied the petition, concluding that the Petitioner did not have a qualifying relationship as the child of a U.S. citizen to be considered for immigrant classification under VAWA. Based on this conclusion, the Director did not evaluate whether the abuse the Petitioner endured was at least one central reason for the delay in filing.

The Petitioner argues that she filed the VAWA petition before she turned 25 years old. According to the Director, the Petitioner filed the VAWA petition on [REDACTED] 2019, which was two days after she attained 25 years of age. This is the same date reflected on the VAWA petition. However, on appeal, the Petitioner provides a receipt from the United States Postal Service (USPS) reflecting that on July 29, 2019, the Petitioner's counsel mailed the VAWA petition to the Vermont Service Center. Additionally, she submits a USPS tracking printout reflecting the Director received that same package on August 2, 2019. On that date, the Petitioner had not yet attained 25 years of age. Section 204(a)(1)(D)(v) allows a VAWA petition to be treated as having been filed before the filing party reaches the age of 21 if the petitioner files the VAWA petition before attaining 25 years of age and demonstrates that the abuse was at least one central reason for the delay in filing. We conclude that the evidence on appeal establishes that the Petitioner was not yet 25 years old when she filed the VAWA petition.

Because the new evidence submitted on appeal overcomes the Director's ground for denial, we will remand the matter for the Director to consider the remaining eligibility requirements for immigrant classification as the abused child of a U.S. citizen under section 204(a)(1)(A)(iv) of the Act, to include whether she has demonstrated that the abuse was at least one central reason for the delay in filing until after she had attained 21 years of age.

**ORDER:** The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.