



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

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

In Re: 17654505

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 spouse of a U.S. citizen under the Violence Against Women Act (VAWA) provisions codified in the Immigration and Nationality Act (the Act) at section 204(a)(1)(A)(iii), 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). The matter is now before us on appeal. On appeal, the Petitioner submits evidence and a brief asserting his eligibility. The Administrative Appeals Office reviews 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 this matter for further proceedings consistent with this decision.

I. LAW

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if they demonstrate they entered into the marriage in good faith and were battered or subjected to extreme cruelty perpetrated by the spouse. Section 204(a)(1)(A)(iii)(I) of the Act. The petitioner must also 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. 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 self-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, a native and citizen of Kenya, filed the instant VAWA petition in July 2018 based on his marriage to B-G-,¹ a U.S. citizen. The Director denied the petition, concluding that the Petitioner did not establish that he was battered or subjected to extreme cruelty perpetrated by B-G- or that he entered into marriage with her in good faith. The Director explained that the evidence did not establish that B-G-'s behavior during their marriage included battery or violence towards the Petitioner or was part of an overall pattern of violence that would generally constitute extreme cruelty for immigration purposes. The Director further mentioned that the Petitioner's supplemental statement lacked

¹ We use initials to protect the privacy of individuals.

sufficient probative detail, he did not provide sufficient evidence of joint financial records, and there were inconsistencies related to when he and B-G- were married and resided together.

On appeal, the Petitioner provides a brief and updated statements addressing the bases of denial. He refers to an approved Form I-130, Petition for Alien Relative, and he describes how he met B-G- and their marital life together. He also details emotional abuse from B-G- and how this traumatized him in relation to past violence he experienced in Kenya. Furthermore, the Petitioner submits a travel itinerary; previously submitted and new photographs of himself, B-G-, their child, family, and friends from many outings and occasions; a receipt for their child's pictures; and a joint university letter.

The record reflects that the Petitioner has provided relevant evidence that the Director has not had the opportunity to review. As such, we will remand the matter to the Director to consider this evidence in the first instance and determine whether the Petitioner has established his eligibility for immigrant classification under VAWA.

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