



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

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

In Re: 22376383

Date: AUG. 26, 2022

Appeal of Vermont Service Center Decision

Form 1-360, Petition for Abused Spouse or Child of U.S. Citizen

The Petitioner seeks immigrant classification under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(A)(iv) of the Act, 8 U.S.C. § 154(a)(1)(A)(iv), as a child battered or subjected to extreme cruelty by his U.S. citizen parent. The Director denied the Form 1-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), and the matter is before us on appeal. 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). Upon *de novo* review, we will remand the matter to the Director for the issuance of a new decision.

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 record indicates that the Petitioner, a native and citizen of Mexico, filed the instant VAWA petition in November 2019, when he was 22 years old, based on his relationship with his stepmother, B-B-,¹ a U.S. citizen. In a statement submitted before the Director, the Petitioner explained that he and his younger brother travelled to the United States to visit their father in 2008. He recalled that life with his father was good until he began dating B-B-. He claimed that B-B- began drinking heavily after she lost her job, fought with his father, threw things, called him and his brother “illegals,” and repeatedly threatened them with deportation. He further claimed that he and his brother rarely had enough food and that his schoolwork suffered because of the constant chaos in the household. The Petitioner eventually left the house with his younger brother after he determined that it was no longer safe for them to continue living with his father and B-B-.

In support of his VAWA petition, the Petitioner submitted a copy of his border crossing card.² The Director issued a request for evidence (RFE) seeking among other things, evidence that B-B-’s battery and extreme cruelty was one central reason for the Petitioner’s delay in filing. In response, the Petitioner submitted an updated personal statement, a copy of his Mexican birth certificate, and a clinical assessment from a licensed social worker. The Director acknowledged the Petitioner’s clinical assessment and updated personal statement indicating that B-B- never gave him an opportunity to apply for residency due to her abuse and control, and that he was unaware that he could do so until he met with an attorney in May 2019. Nevertheless, the Director emphasized that the Petitioner’s assertion that he was unaware of VAWA until after he turned 21 due to B-B-’s battery and extreme cruelty was vague and did not establish that the abuse caused the delay in filing. Additionally, the Director noted that his VAWA petition indicated that the Petitioner stopped residing with B-B- in 2013, and that he did not provide evidence that B-B-’s battery or extreme cruelty from 2014 until he turned 21 years old was the central reason for the delay in filing. After reviewing the evidence, the Director denied the petition, concluding that the Petitioner had not demonstrated that he had a qualifying relationship with a U.S. citizen parent, as required, because he was over 21 years of age at the time of filing and had not demonstrated that battery or extreme cruelty by B-B- was a central reason for the delay in filing.

On appeal, the Petitioner asserts that “[he has] established years of trauma caused by physical and emotional abuse and insecurity which was so traumatic that [he] was mentally incapable of seeking help to file in a timely manner.” Upon *de novo* review, we agree with the Petitioner that B-B-’s battery and extreme cruelty was one central reason for his delay in filing. The Petitioner is not required to establish that the battery or extreme cruelty was the sole reason for the delay in filing. Rather, he must establish that the connection between the battery or extreme cruelty and the delay in filing was more than tangential. 3 *USCIS Policy Manual* D.3(G)(1), <https://www.uscis.gov/policymanual>. A petitioner may meet this requirement when the battery or extreme cruelty “was so traumatic that the self-petitioner was mentally or physically incapable of filing a self-petition prior to turning 21 years old.” *Id.* Here, the Petitioner recounted years of childhood abuse including physical violence, hunger, a chaotic and unstable home life, lack of sleep and forced part-time employment and caretaking due to

¹ Initials are used to protect the individual’s privacy.

² The Petitioner indicated, through counsel, that he also enclosed a copy of the Louisiana marriage certificate for his father and B-B-, evidence of his attempt to obtain a copy of B-B-’s birth certificate, his personal statement, and copies of police reports from [REDACTED] 2011, [REDACTED] 2012 and [REDACTED] 2013. However, said evidence was not in the Petitioner’s file.

his father's and B-B-'s neglect and abuse. In his personal statement, the Petitioner stated that 2010 to 2013 were the worst years of his life as "there was not a day that [he] went to sleep calm with nothing to worry about—not worrying about a table flying across the room, walls being busted, [or] cops being called." The Petitioner was 17 years old when he left his house with his younger brother in 2013. He was his brother's sole caregiver until he graduated from high school in 2019. The record reflects that the Petitioner struggled to access social and legal services until he had a consultation with Catholic Charities that same year. The record also reflects that the Petitioner's past abuse affected him after he left his home in 2013. He told a licensed social worker that he continues to experience flashbacks, fear of deportation and hypervigilance due to the abuse. He also told her that he still sits in the house all day if he is not working for fear that he will be deported—something that B-B threatened to do on multiple occasions. She diagnosed the Petitioner with Post-Traumatic Stress Disorder (PTSD) and recommended trauma-informed interventions to treat his symptoms. Based on the foregoing, the Petitioner has established, by a preponderance of the evidence, that B-B's abuse was at least one central reason for his delay in filing.

III. CONCLUSION

As the Petitioner has overcome the Director's sole ground for denying the VAWA petition, we will remand the matter for further consideration of whether he meets the remaining statutory requirements at section 204(a)(1)(A)(iv) of the Act.

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