



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

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

In Re: 21157020

Date: JUNE 9, 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 at section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 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), concluding that the Petitioner did not establish he had been subjected to battery or extreme cruelty, as required. The matter is now before us on appeal. Upon *de novo* review, we will dismiss the appeal.

I. LAW

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in part, that they entered into the marriage with the U.S. citizen spouse in good faith and the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii) of the Act. Battery or 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; and other abusive actions which may not initially appear violent but are a part of an overall pattern of violence. 8 C.F.R. § 204.2(c)(1)(vi).

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). Petitioners are "encouraged to submit primary evidence whenever possible," but may submit any relevant, credible evidence in order to establish eligibility. 8 C.F.R. § 204.2(c)(2)(i). U.S. Citizenship and Immigration Services (USCIS) determines, 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 filed his VAWA petition in October of 2020, indicating he married M-R-¹ a U.S. citizen, in [REDACTED] 2018. He submitted a copy of a police report from [REDACTED] 2020, stating that

¹ We use initials to protect the identities of the individuals in this case.

M-R- “got angry . . . and they [M-R- and the Petitioner] got into a verbal dispute. M-R- began throwing things to the floor causing [the Petitioner] to feel annoyance and alarm.” The Petitioner also submitted, among other things, copies of photographs, tax documents, and copies of birth, marriage, and divorce certificates.

The Director issued a request for evidence (RFE) seeking evidence of the Petitioner’s good moral character. The Director subsequently issued another RFE, requesting, in part, additional documentation that the Petitioner was battered or subjected to extreme cruelty by M-R-, including a statement in the Petitioner’s own words describing his relationship with M-R-. The Director noted that some of the language in the police report was illegible and that it indicated the Petitioner suffered no injury. In addition, the Director stated that although there are photographs of an injury, the Petitioner did not provide an explanation for how the injury occurred.

In response to the RFE, the Petitioner submitted a letter stating he registered with the Justice Center for counseling and is on a waiting list because the Center is not allowing face-to-face counseling due to COVID-19. He also submitted the original copy of the police report and re-submitted copies of the same photographs and other documents.

The Director denied the petition, concluding that the Petitioner did not establish battery or extreme cruelty, as required.

On appeal, the Petitioner submits an affidavit from a licensed psychologist. The psychologist attests that he conducted an interview remotely with the Petitioner on November 24, 2021, who reported that M-R- “would get drunk frequently,” cursed at him, threatened him with deportation, slapped, punched, grabbed, and pushed him, and threw a bottle at him which cut his head. According to the psychologist, the Petitioner said that he could no longer tolerate the abuse and therefore left their marital home in March of 2020. The Petitioner purportedly is afraid to visit her home and sends money to support their child. He reported having trouble sleeping, has a poor appetite, and has trouble focusing, concentrating, and paying attention. He described feeling persistently sad and chronically anxious, and has crying spells and a reduced libido. The psychologist diagnosed the Petitioner with: spouse violence, physical; spouse abuse, psychological; and adjustment disorder with mixed anxiety and depressed mood.

After a careful review of the entire record, including the new evidence submitted on appeal, we do not find that the Petitioner established that he was battered or subjected to extreme cruelty perpetrated by M-R-. The record does not contain any statement from the Petitioner describing any particular incident of verbal or physical abuse, or any other behavior that included actual or threatened violence, psychological or sexual abuse, or otherwise constituted extreme cruelty as that term is defined in the regulation at 8 C.F.R. § 204.2(c)(1)(vi). Although the psychologist recounted in general terms incidents of physical and verbal abuse, without any statement from the Petitioner in his own words attesting to such events, we give limited weight to the psychologist’s attestation of reported events, particularly considering he met the Petitioner only once virtually. The police report does not describe any physical altercation or behaviors that would constitute extreme cruelty and the record continues to lack a description from the Petitioner of what occurred. Similarly, the Petitioner has not provided an explanation for the injury in the photographs, despite the Director’s RFE which highlighted this deficiency. The preponderance of evidence does not establish that M-R- ever battered the Petitioner, or that her behavior included actual or

threatened violence, psychological or sexual abuse, or otherwise constituted extreme cruelty as that term is defined in 8 C.F.R. § 204.2(c)(1)(vi) and as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act. The petition will remain denied.

ORDER: The appeal is dismissed.