



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

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

In Re: 17250099

Date: MAY 12, 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), and the matter is before us on appeal. On appeal, the Petitioner submits a brief and asserts his eligibility.

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 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 that they entered into the marriage with a United States citizen spouse in good faith and that during the marriage, the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii)(I) of the Act; 8 C.F.R. § 204.2(c)(1)(i). In addition, petitioners must 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; 8 C.F.R. § 204.2(c)(1)(i).

Under section 204(a)(1)(A)(iii)(I)(bb) of the Act, a VAWA self-petitioner must demonstrate they were "battered or subjected to extreme cruelty" perpetrated by their spouse during the marriage. This term 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 shall be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence.

8 C.F.R. § 204.2(c)(1)(iv). To establish battery or extreme cruelty, petitioners may submit evidence such as: police reports; records from a court, school, church, shelter, or social service agency; photographs; affidavits; or any other credible evidence. 8 C.F.R. § 204.2(c)(2)(iv).

U.S. Citizenship and Immigration Services (USCIS) shall consider any credible evidence relevant to the VAWA petition; however, the definition of what evidence is credible and the weight that USCIS gives such evidence lies within USCIS' sole discretion. 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. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The Petitioner, a native of Egypt and citizen of Jordan, married C-G-S-,¹ his U.S. citizen spouse, in [REDACTED] 2017. In October 2018, he filed the instant VAWA petition based upon this marriage. The Director issued a request for evidence (RFE) asking the Petitioner to submit additional evidence to establish that he was battered or subjected to extreme cruelty perpetrated by his spouse. Upon review of the Petitioner's timely response, the Director denied the petition, concluding that the evidence was insufficient to establish the Petitioner had been battered by or subjected to extreme cruelty by C-G-S-. The Director determined that C-G-S-'s actions, as described by the Petitioner, indicated that the Petitioner may have been in an unhealthy relationship that caused him to experience emotional and physical distress, but that C-G-S-'s behaviors "did not constitute extreme cruelty for immigration purposes."

On appeal, counsel for the Petitioner contends that the Director did not properly apply the "any credible evidence" requirement in denying the instant petition and improperly rejected the evidence in the record satisfying that standard. Specifically, counsel asserts that the Director's RFE erroneously rejected or gave very little weight to the psychosocial evaluation in the record when concluding that the Petitioner had not established abuse. He further asserts that in rejecting the evidence that met the any credible evidence standard, the Director "implicitly" required the Petitioner to "provide an unacceptably narrow range of documents to clearly show abuse." We do not find this argument persuasive. As an initial matter, the record does not reflect that the Director rejected the evidence submitted below. In issuing the RFE, the Director considered the psychosocial evaluation submitted with the initial VAWA petition but requested additional documentation to establish extreme cruelty as defined for immigration purposes. The Director then explicitly considered the relevant evidence in the record, including both this psychosocial evaluation and the Petitioner's statement, provided in response to the Director's RFE, in denying his VAWA petition. As stated, although USCIS considers any credible evidence in support of a VAWA petition, it has sole discretion in determining the credibility and weight to be given such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). Here, contrary to counsel's assertion on appeal, our review indicates that the Director properly considered and gave appropriate weight to the relevant evidence, as required, in determining that the Petitioner had not demonstrated that his U.S. citizen spouse subjected him to battery or extreme cruelty. The Petitioner therefore has not shown on appeal that the Director erred in the application of the any credible evidence standard.

¹ Initials are used to protect the privacy of this individual.

The Petitioner further asserts on appeal that the record below demonstrated his eligibility for the classification sought. In relevant part, this record included the Petitioner's statement, a psychosocial evaluation of the Petitioner, and a statement from the Petitioner's landlord. In the Petitioner's statement, he asserted that his marriage to C-G-S- was good in the beginning. He explained in this statement, however, that C-G-S- began to abuse methamphetamines and that this had a negative impact on her behavior which in turn affected the Petitioner's health and well-being. The Petitioner stated that once C-G-S- began to abuse drugs, she became violent towards him and others living in their home and began to constantly harass him for money so that she could purchase illegal drugs. He asserted that the constant pleading with C-G-S- left him mentally exhausted and physically ill such that he lost his appetite and began to feel ashamed, depressed and guilty. The Petitioner stated that his family did not agree with his decision to marry someone who was not of his religion, and that he had nowhere to turn once he was in the troubled marriage. He explained that he has a hard time speaking with friends about his marriage and is embarrassed that his spouse ended up in jail. The Petitioner asserted that his experience with C-G-S- has left him traumatized and unable to trust that he is able to make the correct choices.

According to the psychosocial evaluation diagnosing the Petitioner with posttraumatic stress disorder (PTSD), the Petitioner first learned that C-G-S- began abusing illegal drugs after he took her to a local emergency room when he became concerned about her behavior. The Petitioner explained that one month after this trip to the emergency room, C-G-S- began to hallucinate and to fight with people based upon her delusions. He stated that the deterioration in her behavior caused problems for him and those living in the rental home, but did not provide detailed examples of these behaviors. The Petitioner also recounted that C-G-S- asked him for money and he refused to provide it on multiple occasions because he felt it would be used for illegal drugs. The Petitioner articulated in this evaluation that he wanted to help C-G-S- but did not know how to, leading him to feel desolated and incompetent. The Petitioner stated that as a result of his spouse's drug addiction, he suffered panic attacks and experienced high anxiety and went to the hospital twice after having strong headaches and chest pain. The Petitioner stated that he ultimately decided to leave C-G-S- because of the anxiety that her ongoing drug abuse and hallucinations caused him. Even after he left, C-G-S- continued to request money from him even after he left, and he ultimately provided her with funds so that she would enter a drug rehabilitation program; after attempting to contact her to determine if she had done so, the Petitioner learned that C-G-S- had been arrested for dealing drugs and was to be incarcerated until the end of [REDACTED] 2018. Finally, the Petitioner noted in this evaluation that that he moved from the state in which he resided with C-G-S- because he feared that drug dealers who previously visited his home would find him again as he was still married.

The statement from the Petitioner's landlord in the record below indicated that he witnessed the marital difficulties of the Petitioner and C-G-S-, that he believed C-G-S- to be under the influence of drugs or alcohol, and that the Petitioner appeared to be doing his best to calm C-G-S- when they fought.

Upon review, we do not find that the record before us on appeal demonstrates that the Petitioner was subjected to the conduct described in 8 C.F.R. § 204.2(c)(1)(iv). We are sympathetic to the anxiety and distress that the Petitioner described suffering in his statement and the psychosocial evaluation, due to his spouse's behavior and drug abuse, and acknowledge his PTSD diagnosis. However, although the Petitioner relayed in his psychosocial evaluation that his spouse's drug abuse caused him to have severe panic attacks and created problems for him and others living in the home and indicated

in his written statement that there were times when she became violent towards him, he did not offer detailed or probative descriptions of any events or circumstances in which his spouse subjected him to battery or extreme cruelty. The Petitioner's former landlord also provided only general statements indicating that he witnessed C-G-S-' behaviors but did not offer probative detailed examples of these incidents or the events leading up to them. Additionally, the Petitioner does not allege, and the record does not indicate, that he was the victim of physical battery for VAWA purposes. Accordingly, although the record shows that the behavior of C-G-S- adversely affected the Petitioner's mental health, the Petitioner's affidavit and other relevant evidence in the record does not sufficiently demonstrate that C-G-S- inflicted or threatened violence against the Petitioner, psychologically or sexually abused or exploited him, or engaged in any other abusive actions that were part of an overall pattern of violence constituting battery or extreme cruelty as described in the regulation at 8 C.F.R. § 204.2(c)(1)(vi).

Accordingly, the Petitioner has not established by a preponderance of the evidence that his spouse subjected him to battery or extreme cruelty during their marriage, as required by section 204(a)(1)(A)(iii)(I)(bb) of the Act.

III. CONCLUSION

The Petitioner has not overcome the basis of the Director's decision on appeal and therefore has not demonstrated his eligibility for VAWA classification.

ORDER: The appeal is dismissed.