



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

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

In Re: 18295556

Date: SEP. 06, 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. We review 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) 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)(vi).

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 given to such evidence lies within the sole discretion of USCIS. 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. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

## II. ANALYSIS

The Petitioner, a native and citizen of Cameroon, married D-A-,<sup>1</sup> his U.S. citizen spouse, in [ ] 2017. In May 2019, he filed the instant VAWA petition based upon this marriage. Upon review of the record, including the Petitioner's timely response to a June 2020 request for evidence (RFE), the Director denied the petition, concluding that the evidence submitted by the Petitioner was insufficient to establish, by a preponderance of the evidence, that he had been battered by or subjected to extreme cruelty by his U.S. citizen spouse, as required. *See* section 204(a)(1)(A)(iii)(I) of the Act; 8 C.F.R. § 204.2(c)(1)(i).

On appeal, the Petitioner submits an additional statement and asserts that the record below supports a conclusion that he had been battered or subjected to extreme cruelty. Upon *de novo* review of the record in its entirety, the Petitioner has not overcome the Director's ground for denial. The record below contained in relevant part, the Petitioner's initial statement, a supplemental statement submitted with his RFE response, a psychosocial evaluation of the Petitioner, third-party affidavits, and a [ ] 2017 summary of a [ ] Police Department [ ] incident report as well as a more detailed [ ] incident report obtained by USCIS in November 2020 during the course of a USCIS investigation into other documents in the record.<sup>2</sup>

In the Petitioner's statements before the Director, he explained that he was very happy with his spouse prior to their marriage, but that this changed shortly after he married D-A- and he became aware that she abused illegal drugs. He stated that after using these drugs, she once locked him out of the house, called him names, and threatened to call immigration on him. The Petitioner also relayed that D-A- subjected him to physical and sexual abuse. In third-party affidavits in the record, the affiants generally recounted that the Petitioner told them D-A- would lock him out of his apartment, call him names, and abuse illegal drugs. In his statements, the Petitioner also described a [ ] 2017 incident to support his assertion that his spouse subjected him to extreme cruelty. According to the Petitioner, on an evening in [ ] 2017 he returned home to find his spouse in bed with another man. He claimed that after the man left, D-A- slapped him and locked him out of the home after he

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<sup>1</sup> Initials are used to protect the privacy of this individual.

<sup>2</sup> The Director advised the Petitioner that USCIS obtained this report from the [ ] and provided him with a description of its contents both in an RFE and in the decision denying his VAWA petition.

asked why the man was in their bed. He relayed that a neighbor called the [ ] that upon their arrival he explained what happened, and that the neighbor corroborated the events to the [ ] as the Petitioner described them. The Petitioner explained that he told the [ ] officers that he did not want to press charges, that they advised him not to stay in the same apartment that evening, and that he left to stay elsewhere for a week. One third-party affiant confirmed that the Petitioner slept on their couch for a week following this [ ] 2017 incident, while a second also indicated that the Petitioner described these events to them, but neither affiant provided any substantive information about the circumstances leading up to or occurring during this incident as described by the Petitioner.

The Petitioner explained in his statements that upon his return to the apartment that he shared with D-A-, things became worse, and that she threatened to call immigration if he challenged her. He explained that his spouse began to curse and insult him, and that he began to feel unsafe. In the psychosocial evaluation in the record, the Petitioner also recounted the [ ] 2017 event and reported experiencing trust issues and anxiety as a result of his spouse's abuse. According to this evaluation, the Petitioner's symptoms were consistent with a diagnosis of posttraumatic stress disorder (PTSD).

However, a review of the record discloses significant inconsistencies between the Petitioner's description of the [ ] 2017 incident and other independent evidence in the record, calling into question the credibility of the Petitioner's statements regarding the extreme cruelty that he was subjected to by D-A-. As the Director advised the Petitioner in the decision below, in November 2020 USCIS officials obtained a detailed [ ] incident report for the evening of [ ] 2017. This incident report describes a series of events that differ significantly from the ones recounted in the Petitioner's statements and during his psychosocial evaluation. For example, according to the [ ] incident report, the Petitioner was home and eating a bowl of rice in bed when the [ ] 2017 incident began; this is significantly different from the Petitioner's statements where he relayed that he returned home to find a man in bed with his spouse. Further, the [ ] report does not reflect that the Petitioner's spouse slapped him, stripped him naked, and locked him out of the house as he recounted. Rather, the report indicates that after the Petitioner's spouse entered the bedroom a verbal argument about car insurance began; that this argument escalated, and that the Petitioner pushed his wife in an attempt to get away from her. The Petitioner indicated to the responding officer that his spouse left to go to the kitchen and get a knife, and that at that time he ran from the apartment. In addition, the detailed incident report states that the Petitioner flagged down a [ ] officer, and does not identify any witnesses or otherwise reference corroborating witness statements, in contrast to the Petitioner's statements, where he asserted that a neighbor contacted police and corroborated his story at the time of the incident.

On appeal, the Petitioner reasserts his previous claims and newly offers an explanation for the discrepancy between his statements regarding the [ ] 2017 incident and the detailed [ ] report in the record of the same. We acknowledge this explanation, but do not find it sufficient to overcome the Director's ground for denial. First, as discussed above, the Petitioner's statements regarding the [ ] 2017 incident contain numerous inconsistencies with the detailed [ ] incident report obtained by USCIS, calling into question the credibility of the statements as a whole. This necessarily lessens the evidentiary weight that we afford the Petitioner's statements. See Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i) (providing that while USCIS must consider any credible evidence relevant to the VAWA petition, the definition of what evidence is credible and the

weight that USCIS gives such evidence lies within USCIS' sole discretion.) The remainder of the record is not sufficient to overcome the lesser weight we afford the Petitioner's statements. Both the third-party affidavits and the psychosocial evaluation discussing the [REDACTED] 2017 incident recounted events as told by the Petitioner and did not provide additional clarifying probative details of the circumstances leading up to it. The remainder of the third-party affidavits in the record below lacked detailed probative descriptions of other events or circumstances, instead generally describing incidents of the claimed abuse. Upon review, we do not find that the record before us on appeal demonstrates, by a preponderance of the evidence, that the Petitioner was subjected to the conduct described in 8 C.F.R. § 204.2(c)(1)(vi). Accordingly, he has not demonstrated that he is eligible for classification as an immediate relative pursuant to VAWA.

**ORDER:** The appeal is dismissed.