



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

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

In Re: 27744590

Date: SEP. 8, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Abused Spouse of U.S. Citizen)

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen. *See* Immigration and Nationality Act (the Act) section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition as an immediate relative rather than remain with or rely upon an abuser to secure immigration benefits.

The Director of the Vermont Service Center denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Abused Spouse of U.S. Citizen) (VAWA petition), concluding that the Petitioner had not demonstrated that her U.S. citizen spouse subjected her to battery or extreme cruelty, as required. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner submits a brief and asserts her eligibility.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review 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 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, during the marriage, the Petitioner, or their child, was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii) of the Act; 8 C.F.R. § 204.2(c)(1)(i)(E).

“[B]attered or subjected to 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 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, a petitioner 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).

II. ANALYSIS

The Petitioner, a native and citizen of Nigeria, married R-E-,¹ a U.S. citizen, in [] 2017. She filed this VAWA petition based on her marriage to R-E- in May 2020. In considering the VAWA petition, the Director reviewed the evidence in the record, including a personal statement from the Petitioner, a psychological evaluation, and third-party statements briefly acknowledging the Petitioner's relationship to R-E-.

The Director denied the VAWA petition because the Petitioner had not demonstrated that her U.S. citizen spouse subjected her to battery or extreme cruelty, as required. Specifically, the Director determined that the evidence did not establish R-E-'s behavior during their marriage included battery or other violence directed at the Petitioner or that his behavior constituted extreme cruelty for immigration purposes.

In her statement before the Director, the Petitioner stated that her relationship with R-E- was fine until he was asked to get fingerprinted in pursuit of her immigration status. She indicated that since that day, R-E- "behaved totally differently," and besides "acting weird," he did not come home every night, though he would advise her if he was staying out. She then recalled that in April 2018, "he left and never came back." She indicated that he answered her phone calls and told her he was busy with work and would come back later, but he never returned and stopped answering her phone calls as time passed. She recalled seeing a mutual friend and asking about R-E-, but he told her that R-E- did not want to meet with her. She stated that R-E- just abandoned her without any reason and she felt "miserable, hopeless, lone[ly], dejected, and . . . stressed over [her] wellbeing, both financially and emotionally." We also acknowledge previously submitted evidence in the record, including third-party statements, and her psychological evaluation, which indicates that the Petitioner has been diagnosed with conditions including severe and recurrent major depressive disorder, generalized anxiety disorder, and post-traumatic stress disorder (PTSD), and faced difficult personal circumstances related to the breakdown of her marriage.

Upon de novo review, however, we find that the Director correctly determined that the evidence in the record does not establish R-E-'s behavior during their marriage included battery or other violence directed at the Petitioner or that his behavior was part of an overall pattern of violence that would

¹ We use initials to protect the privacy of individuals.

generally constitute extreme cruelty for VAWA eligibility purposes. R-E-'s abandonment and lack of commitment to the Petitioner, as described in the Petitioner's statement and psychological evaluation, does not fit within any of the conduct described at 8 C.F.R. § 204.2(c)(1)(vi). Additionally, the Petitioner's written statement and psychological evaluation do not indicate that R-E- inflicted or threatened battery or violence against her or sexually abused or exploited her. The psychological evaluation refers to nonverbal forms of aggression, including the "silent treatment and stonewalling," marital abandonment without explanation or formal separation, financial harm because she was left to cover all household expenses without arrangements for formal separation or transition out of the relationship, and immigration status related challenges because R-E- withheld pertinent information regarding his criminal record. However, it does not contain sufficient probative detail regarding any underlying incidents of abuse to establish that R-E- psychologically abused the Petitioner or otherwise engaged in any other abusive actions that were part of an overall pattern of violence constituting extreme cruelty. The third-party statements from friends simply acknowledge knowing the couple, but lack information regarding knowledge of any specific behaviors by R-E- that are encompassed within the regulatory definition of "subjected to battery or extreme cruelty." As such, even if R-E-'s actions contributed to the Petitioner's diagnoses, the Petitioner has not satisfied her burden to demonstrate that R-E- subjected her to battery or extreme cruelty during their marriage. See *Matter of Chawathe*, 25 I&N Dec. at 375-76 (explaining that a petitioner must establish that they meet each eligibility requirement by a preponderance of the evidence and that in determining whether a petitioner has satisfied their burden, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence).

On appeal, the Petitioner submits a brief from counsel indicating that R-E-'s abuse resulted in severe psychological damage to the Petitioner and exacerbated her various physical health conditions. The Petitioner asserts that R-E-'s behavior towards her resulted in severe trauma that went beyond mental stress and abandonment. She states that she "was treated with extreme cruelty by [R-E-]," she is in poor health, and she is suffering from significant mental health concerns directly related to her treatment at the hands of her U.S. citizen husband. The Petitioner's brief submitted on appeal does not overcome the Director's determination. Although the Petitioner contends that the psychological evaluation previously submitted in the record demonstrates that R-E- subjected her to emotional and psychological abuse, it lacks sufficient probative details to show a pattern of abuse by her spouse during the marriage. Accordingly, R-E-'s actions, as described in the Petitioner's statement and the psychological evaluation, including his lack of communication and abandonment of the Petitioner, do not establish an overall pattern of violence or psychological abuse or fit within any of the conduct described at 8 C.F.R. § 204.2(c)(1)(vi).

For these reasons, the Petitioner has not established that she was subjected to battery or extreme cruelty by her U.S. citizen spouse during the marriage, as required. Consequently, the Petitioner has not demonstrated her eligibility for immigrant classification under VAWA.

ORDER: The appeal is dismissed.