



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

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

In Re: 27641147

Date: AUG. 21, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse of U.S. Citizen or Lawful Permanent Resident

The Petitioner seeks immigrant classification as an abused spouse of a lawful permanent resident (LPR) of the United States. *See* Immigration and Nationality Act (the Act) section 204(a)(1)(B)(ii), 8 U.S.C. § 1154(a)(1)(B)(ii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition for preference classification 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 Abused Spouse or Child of Lawful Permanent Resident (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 new personal statement, affidavits from witnesses of the alleged abuse and a new psychological assessment. 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

A petitioner who is the spouse of a lawful permanent resident may self-petition for immigrant classification if they demonstrate, among other requirements, that they were "battered or subjected to extreme cruelty" perpetrated by the spouse during the marriage. Section 204(a)(1)(B)(iii)(I)(bb) of the Act. U.S. Citizenship and Immigration Services (USCIS) must consider "any credible evidence" in a VAWA petition; however, we determine, in our sole discretion, the credibility of and the weight to give that evidence. 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).

The Petitioner is a citizen and national of Dominican Republic who last entered the United States sometime in 2005. The Petitioner married V-R-¹, a lawful permanent resident, in 1978. The Petitioner filed the current VAWA petition in October 2021. The Director denied the petition concluding that the Petitioner did not provide sufficient evidence to establish that she had been subjected to battery or extreme cruelty by V-R-. Specifically, the Director found that the Petitioner's personal statement and the affidavits of support lacked probative detail regarding specific instances of abuse perpetrated by V-R-. The Petitioner filed a motion to reopen and reconsider the Director's decision. The Director

¹ We use initials to protect the privacy of individuals.

determined that the evidence provided on motion was not sufficient to warrant reopening or reconsideration of the denial and dismissed the combined motions.

In her statement to the Director, the Petitioner stated that V-R- cheated on her, was a jealous man and played mind games. In her statement in response to a request for evidence, the Petitioner submitted a second personal statement, affidavits from friends and family and psychological assessment. In her second personal statement, the Petitioner stated that her spouse had a child with another woman, would hide things from her and treated her very badly. We note that in her statement in response to the request for evidence, the Petitioner's name is different in the attestation than on the signature line. Similarly, the name in the subject line of the psychological assessment differs from that of the Petitioner. The inconsistencies in these documents cast doubt on their probative value.

On motion, the Petitioner provided a third personal statement where she claimed that her spouse left her and their children in the Dominican Republic to be with another woman and would treat them very badly when he would come back and visit them. She further stated that she came to the United States to try to make their relationship work but that her spouse left the house and never came back. In addition to her personal statement, the Petitioner provided affidavits from friends and family that provided similar accounts of her marriage with V-R-. This included a letter from her daughter, L-R- stating that she witnessed firsthand what her mother went through after her father left. Several other affidavits discussed the consequences of V-R- abandoning the Petitioner to have a family with another woman.

On appeal, the Petitioner does not provide a brief or identify an incorrect application of law or policy made by the Director either in denying the VAWA petition or the subsequent motions. Instead, the Petitioner submits additional documentary evidence to support her claim of abuse. In her statement on appeal, the Petitioner asserts that her spouse would get upset about the food she cooked, would cheat on her with other women, control finances and not allow her to have money, speak poorly to her, get drunk and physically and sexually assault her, and finally abandoned her. The Petitioner has also provided a second psychological assessment from a new provider and additional third-party affidavits related to her relationship to V-R-.

The record reflects that the Petitioner has provided new, material evidence that the Director has not had the opportunity to review. As such, we will remand the matter to the Director to consider this evidence in the first instance and determine whether the Petitioner has established the battery or extreme cruelty requirement and otherwise established her eligibility for immigrant classification under VAWA.

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