



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

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

In Re: 24727395

Date: MAR. 7, 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 U.S. citizen. 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 Abused Spouse or Child 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 new personal statement, affidavits from witnesses of the alleged abuse and a letter from her health care provider regarding ongoing psychiatric treatment. 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 U.S. citizen 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)(A)(iii)(I)(bb) of the Act. A petitioner who is divorced from their United States citizen spouse may also file a VAWA petition if they show that they were a bona fide spouse of a United States citizen within the past two years, among other requirements. Section 204(a)(1)(A)(iii)(II)(CC)(ccc) 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 without inspection sometime in 2001 after previously being removed earlier the same year. The Petitioner married C-B-<sup>1</sup>, a U.S. citizen, in [ ] of 2010. They divorced in [ ] 2019. The Petitioner filed the current VAWA petition in November 2019, and the Director subsequently denied

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<sup>1</sup> We use initials to protect the privacy of individuals.

the petition concluding that the Petitioner did not provide sufficient evidence to establish that she had been subjected to battery or extreme cruelty by C-B-. 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 C-B-. On appeal, the Petitioner submits a new affidavit where she describes specific instances of abuse, including sexual abuse that she alleges C-B- perpetrated against her. In addition, she submits affidavits of support from friends and family members describing the time, place, and manner of C-B-'s verbally abusive interactions with the Petitioner. The letter from the counseling services provider on appeal generally indicates that the Petitioner divorced her spouse following instances of domestic violence to both her and her daughter. However, the updated statement from the Petitioner and additional letters of support from witnesses submitted on appeal are material to VAWA eligibility and directly address the deficiencies identified by the Director with respect to the Petitioner's claim of battery and extreme cruelty by C-B-.

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.