



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

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

MATTER OF S-R-

DATE: MAY 24, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-360, PETITION FOR AMERASIAN, WIDOW(ER), OR SPECIAL IMMIGRANT

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

The Director, Vermont Service Center, denied the petition. The Director concluded that the Petitioner did not establish the following: a qualifying relationship and corresponding eligibility for immigrant classification as an immediate relative under section 201(b)(2)(A)(i) of the Act, 8 U.S.C. § 1151(b)(2)(A)(i), because his U.S. citizen son is under the age of 21; he is a person of good moral character; he resides, or has resided, with his U.S. citizen son; and his U.S. citizen son battered or subjected him to extreme cruelty.

The matter is now before us on appeal. On appeal, the Petitioner submits a previously submitted brief and additional evidence. The Petitioner requests a discretionary grant of deferred action but does not specifically address the Director's grounds for denial.

Upon *de novo* review, we will dismiss the appeal.

**I. APPLICABLE LAW**

Section 204(a)(1)(A)(vii) of the Act provides that a petitioner who is the parent of a United States citizen may self-petition for immigrant classification if the petitioner demonstrates that he or she was battered or subjected to extreme cruelty perpetrated by the petitioner's daughter or son. In addition, the petitioner must show that he or she is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, resided with the abusive daughter or son, and is a person of good moral character.

For the purpose of section 204(a)(1)(A)(vii)(III) of the Act, eligibility for immediate relative classification under section 201(b)(2)(A)(i) of the Act means that a qualifying relationship exists between a parent and a U.S. citizen daughter or son who is at least 21 years of age when the parent files the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant. *See* USCIS Policy

(b)(6)

*Matter of S-R-*

Memorandum PM-602-0046, *Eligibility to Self-Petition as a Battered or Abused Parent of a U.S. Citizen* 3-4 (Aug. 30, 2011), <https://www.uscis.gov/laws/policy-memoranda>.

The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010). A petitioner may submit any evidence for us to consider; however, we determine, in our sole discretion, the credibility of and the weight to give that evidence. *See* section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

## II. ANALYSIS

The Petitioner is a citizen of Guyana whose son, A-R-,<sup>1</sup> was born in [REDACTED] New York, on [REDACTED]. The Petitioner filed the instant Form I-360 on July 10, 2012, when his son was [REDACTED] years old. Because A-R- was not 21 years of age when the Petitioner filed the Form I-360, the Petitioner does not have a qualifying relationship with a U.S. citizen son and he is consequently ineligible for immediate relative classification under section 201(b)(2)(A)(i) of the Act.<sup>2</sup>

On appeal the Petitioner requests a discretionary grant of deferred action so that he may remain in the United States with A-R-. We have no authority to consider, and accordingly deny, the Petitioner's request.

## III. CONCLUSION

In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The appeal is dismissed.

Cite as *Matter of S-R-*, ID# 11370 (AAO May 24, 2016)

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<sup>1</sup> Name withheld to protect the individual's identity.

<sup>2</sup> Although the Director also denied the Form I-360 because the Petitioner did not establish that he is a person of good moral character, resided with A-R-, or that A-R- battered or subjected him to extreme cruelty, we will not address these issues, as the Petitioner cannot meet the foundational eligibility criterion of having a qualifying relationship with a U.S. citizen daughter or son.