

Domestic Violence Expert Affidavit Guidelines

Provide the “credentials” of the people who wrote the affidavits. All affidavits should include:

- * A paragraph explaining the person’s experience with domestic violence, sexual assault, or trafficking (how long they’ve worked with victims, how many they’ve served, etc.);
- * A paragraph or more describing in detail what the client told them about what they experienced (this includes extreme cruelty, not just physical violence);
- * A paragraph explaining how this was credible to the interviewer given her experience with survivors like the applicant; she can tell the difference between truth and fiction;
- * A paragraph describing why what she was told is domestic violence, sexual assault or trafficking; and

For Extreme Hardship

- * A final paragraph describing why the client needs ongoing counseling and the writer’s willingness to provide such counseling. Merely stating she needs counseling isn’t helpful.

ATTACHMENT
VAWA Extreme Hardship Factors

* **Needing services here that are unavailable in the homeland**

Examples: shelter, counseling and support, medical care PLUS
don't exist in home country or unavailable to applicant

* **Ongoing access to the U.S. civil and criminal justice system**

Examples: resolving custody issues, possible (or current) financial support from
abuser, protection order enforcement, ongoing criminal case against
abuser

* **Likelihood the abuser will follow to homeland and lack of protective laws or their enforcement in home country**

Examples: abuser from home country or travels there frequently and/or is a
stalker PLUS
no protective laws or not enforced in home country

* **Likelihood that applicant will suffer ostracization, penalization or harm if returned**

Examples: divorced women, single women with children,
women and children who are "westernized" or multiracial
men who have suffered domestic violence
abuser's family is in same area of home country

* **Nature and extent of the abuse**

Examples: Long marriage with abuse; rape, child molestation, other heinous
crimes

* **Effect on the children (applying the above factors)**

Examples: trauma from witnessing abuse, choice of remaining with abuser in
U.S. or returning to homeland where can't speak language and needed
counseling/support unavailable

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ATTACHMENT
VAWA Cancellation Requirements: INA § 240A(b)(2)
VAWA Suspension = old INA § 244(a)(3)

Not inadmissible or deportable for crimes, security, some kinds of fraud
INA §§ 212(a)(2) & (3); 237(a)(1)(G), (2-4)
[suspension, not deportable under old 241(a)(1)(G)(marriage fraud) &
241(a)(2)(crimes)]

Battering or Extreme Cruelty in the United States

Abuser is USC/LPR and

Spouse or former spouse, if abuse occurred during marriage

Parent or former parent, if abuse occurred during parental relationship
NOTE: Sons & daughters (not just children) qualify

Parent of abused child of applicant (no marriage required)

Good Moral Character

Extreme Hardship, Tailored to Domestic Violence
8 C.F.R. §§ 240.58(c) & 240.20

to Applicant

Applicant's child, if applicant is spouse or former spouse of abuser

Applicant's parent, if applicant is child or former child of abuser

Three years' Continuous Presence

****ANY CREDIBLE EVIDENCE****

ATTACHMENT
VAWA Procedural Options
in Immigration Proceedings

Continue hearing to allow self-petition filing

If approved self-petition (I-360):

Adjust, if otherwise immediately eligible

Derivatives benefit

In not eligible to adjust, admit for proof of all cancellation elements except 3 years

Terminate

If only charge is "present without admission or parole" - 212(a)(6)(A) and

Approved 360 and "first arrived" before 4/1/97,
IIRIRA § 301(c)(2) or

Approved 360, arrived after 4/1/97 and shows substantial connection
between unlawful entry and domestic violence

If IIRIRA § 384 violation

Administratively close for repapering

If NTA curtails three years and otherwise eligible