

UNITED STATES DEPARTMENT OF HOMELAND SECURITY
U.S. CITIZENSHIP AND IMMIGRATION SERVICES
NEBRASKA SERVICE CENTER

IN THE MATTER OF:

ISA DE LA CRUZ
SELF PETITIONER

A

Commented [RE1]: If your client has an A number, put it here. If they don't, or they might but you don't know it, it is fine to omit.

DECLARATION OF ISA DE LA CRUZ
IN SUPPORT OF HER I-360 VAWA SELF PETITION

I, Isa de la Cruz, declare under the penalties of perjury that the following is true and correct based on my personal knowledge and belief:

1. My name is Isa de la Cruz. I was born on January 1, 2000, in Oaxaca, Mexico.
2. I am a native and citizen of Mexico. I am married but separated and in divorce proceedings. My husband's name is Cedro de la Cruz.
3. I speak and understand the Spanish language best. This declaration was read to me in Spanish. I made any necessary corrections before I signed it.
4. I currently reside at [address].

Growing Up, Feeling Worthless and Unwelcome in the Family

5. I think it will help you to know a bit about my childhood.
6. My family growing up was mostly me, my brother, [name], and my mom, [name]. My parents were married but my father, [name] had a job that made him travel to different countries to work on jobs. He was out of the country for months at a time, then would be home for short periods between jobs.
7. This was actually nice for me, because I got along ok with my brother and mom, but my father was mean. I don't know if he even ever tried to like me or just never wanted a daughter. He favored my brother in every way. He expected both me and my mom to serve him, and do literally anything for him. As he grew older, my brother didn't really want this treatment anymore, but he was afraid to say anything to my dad. We were all afraid of him.

Commented [RE2]: Headings are optional. They become more important the longer the declaration is. If you use them, the presenters' view is that they should describe the information that follows them, rather than being legal conclusions, like "I was subject to battery and extreme cruelty." However, some practitioners like to use legal conclusion signposts.

8. I remember one time when my dad was home and we were celebrating my brother's birthday. I was about 5 or 6. We had a cake for my brother and I wanted to try some of the frosting. When I went to try to take just a little bit of it, my father got so angry. He shoved me so hard away from the cake, before I even touched it, that I fell into a wall. I hit my head really hard and passed out for a little bit. To this day I still have some trouble with my memory and my mom thinks it's because of that. My dad never apologized.
9. Besides that, in general, my dad just never showed me I mattered to him at all. [Set the scene for Isa being depressed and without other options when she met Cedro; introduce fact she got pregnant at 15, was disowned by father.]
10. So I basically lived with my boyfriend's family while I was pregnant and for a while after the baby was born, but we eventually broke up. My boyfriend's parents doted on my daughter and were willing to look after her even after we split. It seemed like they would provide a better, more stable home for my daughter than I could at so young an age, with nowhere to live. To this day, my daughter lives with them still, but I call her almost every day and send money when I have it. She is 8 years old and so beautiful and smart, I still love her so much and love hearing about every little detail of her days.
11. Well, after breaking up with that boyfriend, I stayed at some different friends' houses for short periods at a time. In fact, while I was staying with my friend Gloria in 2017, I met this older guy I thought was handsome, who was friends with Gloria's older brother. He looked at me like he actually thought I was pretty and talked to me like I was interesting. This was Cedro de la Cruz.

Falling in Love with Cedro

12. [Explain details she recalls about what drew her to Cedro, good times in the relationship, to help show, not tell, they married for reasons outside of immigration].
13. I moved in with Cedro sooner after we started dating than I would have if I had had other places to go, but I was quite excited to live together. It didn't take long, though, before I started to realize that Cedro was different when it was just us. In front of other people, he would be so sweet and lovey dovey. He'd call me "Angel" and "Cielo," (meaning "heaven") and my friends always told him what a great boyfriend he was. But at home, when no one else could see, he would yell at me. At home he would call me, [use the names in Spanish, translate their meaning]. [Describe how it made her feel.]

Commented [RE3]: Keeping vague if she is not certain.

Commented [RE4]: Phrasing/including details way I believe Session 1 did, as an example of trying to use the client's words. But also include detail about memory, added from talking to Isa later, because that is what really makes this anecdote relevant.

Commented [RE5]: There is no need to go into details about the dad's abuse. The VAWA case does not turn on it, and it could be retraumatizing for Isa to have to tell you about it. But it is relevant to include to some degree, like this general statement. It can explain why what Cedro did was especially effective to woo Isa, control Isa, and wound Isa without using physical violence. It can also help the adjudicator want to do something nice for her, and encourage them to see any negative factors in the case more sympathetically.

Commented [RE6]: Details might seem irrelevant, but failing to support one's dependents can be a good moral character bar. There are questions on the I-485 about children that Isa would have to answer truthfully, so this topic could come up later and it is best to address it head-on, even if it may be a painful thing for her to reflect on, in some ways.

Commented [RE7]: If you need additional evidence on good faith marriage, consider asking if Gloria might write an affidavit. She has first-hand knowledge of their relationship's inception!

Commented [RE8]: Use this kind of explanation and story-telling instead of saying "I had a good faith relationship with Cedro." An affidavit is about facts the affiant has personal knowledge of, not legal conclusions that are within the purview of USCIS. Details about the affiant's circumstances is what is meant by facts; restating legal elements would be the same as offering legal conclusions, and an affiant is neither qualified to do that, nor are they asked to.

Commented [TT9]: When and where did they live together? She will have to show joint residence during their marriage and it may be helpful to include the addresses where they lived together in the affidavit.

Commented [RE10]: Opportunity to use client's own words so that the reader knows it was not made up by a lawyer. Much better to offer these details and *show* the reader there was emotional cruelty, rather than *merely asserting* it by saying, "Cedro was emotionally abusive to me."

14. One time, maybe a few months after we started living together, Cedro actually hit me. We were having an argument about going to a party that he didn't want to go to, but I did. I told him, fine, I would just go without him and Gloria's brother could take me home afterwards. He smacked me in the face. He got so quiet when he did it. Just red in the face. And he said, Gloria's brother wouldn't be taking me anywhere and we would NOT be going to the party and that was it. He left the room and we didn't talk the rest of the night. In the morning he said he was sorry and brought me flowers. But he also said I should have known that I couldn't go to parties alone anymore because I was his, and I should not let other men drive me anywhere without him. At the time I just agreed because, from my experience with my father, I thought it would be easier. I also believed he was sorry.
15. A few months later Cedro went to work in the US. I think he got his green card through that job. While we were dating long distance, things were actually better between us.
16. [Describe going to visit Cedro, using a tourist visa she obtained without fraud or misrepresentation. Describe her intentions to visit and return timely when she entered the US with the visa, then how the marriage proposal changed her mind and she overstayed the visa. Ask if she felt reluctance/pressure to do this, and include if so.]
17. [Include details that could be corroborated, such as events she has photos of, or events where someone else was present, who could write an affidavit.]
18. [Describe doubts about getting married, discussing it with Gloria and disclosing the slap over the party, plus insults. State thought process on still saying "yes."]

Married Life

19. [Describe married life. Possibly show Isa the Power and Control Wheel so that she can better recognize which of her anecdotes will show how Cedro's behavior may not have been physically abusive, but it was controlling, emotionally abusive, isolating, abusive of immigration status, and not without implicit threats based on the fear of the physical abuse that had taken place before the marriage.]
20. [Include details that could be corroborated, such as the insults after her miscarriage (for which you could provide hospital records or other proof of the miscarriage) and extreme weight loss (for which you could photos of her before and after).]

Commented [RE11]: Events you want to emphasize should take up more space on the page/in the declaration. This doesn't always have to mean more graphic details, it can just mean giving more context around an event so that its impact can be understood without going into graphic detail. (Remember, getting those graphic details could be highly re-traumatizing to your client; it could also induce some vicarious trauma for you and/or the reader.)

Commented [RE12]: See how much more credible it is for Isa's own words to be here, than for you to rewrite it based on your more advanced understanding of immigration? It would be a less effective affidavit if it said, "Cedro obtained lawful permanent residency through an EB-3 petition submitted for him by [Company] after first spending a period in H1 status." If USCIS saw that kind of sentence in an affidavit, it might wonder what other additions or changes the lawyer had inserted and give the affidavit less weight.

Commented [TT13]: In a future meeting with Isa, you might ask, what does she mean by this? Can she provide examples of what her life was like when they were dating long distance? This will likely help prove good faith marriage and abuse.

Commented [TT14]: When describing entries, I find it helpful to be very clear about manner of entry, documents used, and whether there was any fraud/misrepresentation or false claims to citizenship. You want to avoid being ambiguous because you don't want the adjudicating officer to make incorrect assumptions, especially since there is no opportunity to clarify in an interview.

Commented [RE15]: Include details that show Cedro's power and control intentions and help make the explanation credible, but watch Isa for manifestations of re-traumatization while you talk, encourage breaks, and err on the side of including too little, if in doubt. USCIS may find what she wrote sufficient, and, if it doesn't, will likely (though not definitely) send an RFE for more details. With the RFE, you'll have a better idea of what re-traumatization is truly necessary, so you will have minimized unnecessary re-traumatization. Because VAWA cases pend so long, it may also be that your client will have received treatment for the trauma, developed new coping skills, or just gotten some healing through the passage of time, such that doing another, more detailed description is less re-traumatizing with that future RFE response than it would be today. Encourage her in the direction of treatment, as appropriate.

21. [Include details of how she is still affected, especially things that may be documented or corroborated in medical or mental health records or letters she could get.]

...

22. [Include details that strengthen or address other elements of the VAWA case you know are weak. Consider setting these out under other headings. For example, for Isa, we know a good moral character weakness is the use of marijuana and her arrest for possessing it. In the next session, we will talk about the impact of that on her VAWA case and the way she must try to overcome it, and that will inform the degree of detail you go into with this affidavit. You may decide it is not actually a big good moral character or inadmissibility problem and prefer not to spend more than a couple sentences on it. Alternatively, put in more details if you think USCIS will be interested to know if it's connected with the abuse and how, as well as if Isa is "rehabilitated" and how USCIS can be sure she is.]

Commented [RE16]: While the "any credible evidence" rule in VAWA would permit someone to carry their burden with an affidavit alone, primary and secondary external evidence is usually stronger. Think of the affidavit more as a complement or supplement to the primary/secondary evidence, or a map to it, rather than as the full case. Still, it is usually best practice to address every element of the claim in the affidavit to at least some degree.

Commented [TT17]: Be sure to address all arrests and convictions.

Since Separating from Cedro

23. [Finish with details of positive changes in Isa's life since separating from Cedro. For example, discuss her mending her relationship with her brother, her love and care for Cedro's son, her volunteer gardening. Especially mention things you can corroborate with other evidence, as this will help give an air of reliability to the entire declaration.]

Commented [RE18]: A helpful device for concluding the story, slipping in more positive discretion evidence, and making USCIS want your client to succeed is to end with a section showing your client is turning a corner

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Commented [RE19]: This is the language that can be used to show the client signs under penalty of perjury, according to 8 USC 1746. In the alternative, you could have your client sign in front of a notary, for the same effect.

Isa De La Cruz

(Date)

CERTIFICATE OF INTERPRETATION

Commented [RE20]: Other formats for this information may also be acceptable.

I, _____, hereby certify that I am fluent in the English and Spanish languages, that I am competent to interpret and translate from English to Spanish and from Spanish to English, and that I have interpreted the foregoing document to ISA DE LA CRUZ to the best of my knowledge and abilities and that she fully understood its contents.

[NAME OF INTERPRETER]
[TITLE – i.e. paralegal / volunteer interpreter]
[ORGANIZATION]
[ADDRESS]
[TELEPHONE]

DATE