



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

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

In Re: 23331497

Date: DEC. 7, 2022

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse or Child of U.S. Citizen

The Petitioner seeks immigrant classification under the Violence Against Women Act (VAWA) provisions codified in the Immigration and Nationality Act (the Act) at section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii), as an abused spouse of a U.S. citizen. The Director of the Vermont Service Center revoked the approval of the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), concluding that the Petitioner did not establish she had a qualifying relationship with a U.S. citizen and was eligible for immigrant classification under section 212(b)(2)(A)(i) of the Act, 8 U.S.C. § 1182(b)(2)(A)(i). The matter is now before us on appeal. On appeal, the Petitioner submits evidence and a brief asserting her eligibility. The Administrative Appeals Office reviews 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 dismiss the appeal.

A petitioner who is the spouse or former spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in part, that they entered into the marriage with the U.S. citizen spouse in good faith and they were battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii) of the Act. Among other things, the petitioner must establish that they are eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act. Section 204(a)(1)(A)(iii)(II)(cc) of the Act. A petitioner who was a bona fide spouse of a U.S. citizen within the past two years and who demonstrates a connection between the legal termination of the marriage within the past two years and battering or extreme cruelty perpetrated by the U.S. citizen spouse remains eligible to self-petition under these provisions. Section 204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) of the Act. The petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

The Petitioner, a native and citizen of China, filed her VAWA petition in January 2017 based on her [REDACTED] 2009 marriage to a U.S. citizen spouse, Y-G-.<sup>1</sup> In April 2018, the Director approved the VAWA petition, but subsequently revoked the petition after issuing a notice of intent to revoke (NOIR). In the NOIR, the Director noted that the Petitioner may not have been free to marry Y-G-. The Petitioner indicated in her VAWA petition that she had been married twice, but she did not submit evidence of the termination of her first marriage to L-C-. Additionally, the Petitioner's Louisiana

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<sup>1</sup> Initials are used throughout this decision to protect the identity of the individual.

marriage certificate was inconsistent with her VAWA petition, as it reflected that her marriage to Y-G- was her first marriage. The Director therefore found good and sufficient cause to revoke the VAWA petition and afforded the Petitioner an opportunity to submit evidence to overcome the material discrepancies. In response to the NOIR, the Petitioner submitted an affidavit, a corrected Louisiana marriage certificate, a petition to correct her marriage certificate, and a court order from the District Court for the [REDACTED] Louisiana. The Director acknowledged that the Petitioner's court order and corrected Louisiana marriage certificate now indicated that she was married twice. However, the Petitioner did not provide a divorce decree for her first marriage, and therefore she did not establish she was free to marry Y-G-. The Director revoked the VAWA petition as the Petitioner did not establish she had a qualifying relationship with a U.S. citizen and was eligible for immigrant classification under section 212(b)(2)(A)(i) of the Act.

On appeal, the Petitioner asserts that she divorced L-C- on or about [REDACTED] 2000. She states that her divorce decree is missing and submits a civil mediation document from the People's Court of [REDACTED] as alternative evidence of her divorce to L-C-. According to the U.S. Department of State (DOS), a qualifying divorce certificate issued in China is a notarial certificate that comes in one of two formats: a notarial certificate for divorce or a notarial divorce certificate. DOS Reciprocity Schedule for China, <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/China.html>. A notarial certificate for divorce "[c]ertifies the authenticity and legality of the divorce" and "indicates the divorced couple's names, and the date and place of divorce" and a notarial divorce certificate "[c]ertifies the authenticity of the original divorce certificate, and that the photocopy of the divorce certificate is in accordance with the original." *Id.* DOS provides these documents are available, the procedure for obtaining them, and there are no alternate documents. *Id.* The Petitioner has not demonstrated that the required documents do not exist or cannot be obtained by providing a written statement from the appropriate issuing authority attesting to the fact that no primary records exist and the reason the records do not exist. *See generally* 1 *USCIS Policy Manual* E.6(B), <https://www.uscis.gov/policymanual> (explaining procedures when primary evidence does not exist or cannot be obtained). The document provided by the Petitioner is insufficient evidence of her divorce from L-C- before marrying Y-G-, such that her marriage to Y-G- could be qualifying for purposes of VAWA classification.

The Petitioner did not overcome the Director's grounds for revocation as she did not establish a qualifying relationship with a U.S. citizen and eligibility for immigrant classification under section 212(b)(2)(A)(i) of the Act. Accordingly, the approval of the VAWA petition will remain revoked.

**ORDER:** The appeal is dismissed.