



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

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

In Re: 18948508

Date: JUN. 23, 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 as an abused spouse of a U.S. citizen under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii). The Director of the Vermont Service Center denied the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), and the matter is before us on appeal. We review the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will remand the matter to the Director for further proceedings consistent with this decision.

I. LAW

A petitioner who is the 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 had been 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 submit evidence of the marital relationship in the form of a marriage certificate and proof of the termination of all prior marriages for the petitioner and the abuser. 8 C.F.R. §§ 204.2(b)(2), (c)(2)(ii).

The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). U.S. Citizenship and Immigration Services (USCIS) determines, in our sole discretion, what evidence is credible and the weight to give to such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. ANALYSIS

The Petitioner filed her VAWA petition in July 2020, based on her 2019 marriage to a U.S. citizen, B-L-.¹ The record indicated that the Petitioner had been previously married in Jamaica prior to her marriage to B-L-. The Director denied the petition, concluding that the Petitioner had not demonstrated the legal termination of her previous marriage and therefore did not establish the requisite qualifying relationship to B-L- as the spouse of a U.S. citizen or her corresponding eligibility

¹ We use initials to protect the privacy of individuals.

for immediate relative classification under section 201(b)(2)(A)(i) of the Act based on that qualifying relationship.

On appeal, the Petitioner asserts that she mistakenly forgot to submit to the Director a copy of the Jamaican divorce decree for her first marriage, and she now proffers the divorce decree with her appeal. As this new evidence directly addresses the Director's basis for denying the petition and is material to establishing the Petitioner's eligibility, we find it appropriate to remand the matter to the Director to consider the evidence in the first instance in determining whether the Petitioner has demonstrated the requisite qualifying marital relationship and therefore her eligibility for immediate relative classification based on such a relationship.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.