



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

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

In Re: 18784007

Date: MAY 20, 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). On appeal, the Petitioner asserts her eligibility for VAWA classification.

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 dismiss the appeal.

I. LAW

Petitioners who are spouses of U.S. citizens may self-petition for immigrant classification if, *inter alia*, they demonstrate they entered into marriage with the U.S. citizen in good faith and that, during the marriage, they were battered or subjected to extreme cruelty perpetrated by their U.S. citizen spouse. Section 204(a)(1)(A)(iii) of the Act; 8 C.F.R. § 204.2(c)(1)(i).

Petitioners may submit any credible evidence relevant to the VAWA petition for us to consider; however, we determine, in our sole discretion, the credibility of and the weight to give such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). Petitioners bear the burden of proof 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).

II. ANALYSIS

The Petitioner married J-N-¹ in [] 1995 in the [] New York. U.S. Citizenship and Immigration Services (USCIS) records indicate that a Form I-130, Petition for Alien Relative (Form I-130), was approved on the Petitioner's behalf in January 1996. However, USCIS records also indicate that the Petitioner's Form I-130 approval was subsequently revoked in May 1998 following the issuance of a Notice of Intent to Revoke (NOIR) the petition approval issued in January 1998 to which there was no response received. In denying the VAWA petition, the Director determined that

¹ Initials are used to protect the privacy of this individual.

the Petitioner did not establish a qualifying relationship as the spouse of a U.S. citizen. Specifically, the Director correctly noted that the record contained no evidence demonstrating that the Petitioner's now ex-husband is now or has ever been a United States citizen.² Therefore, the Petitioner was not eligible for immigrant classification under section 201(b)(2)(A)(i) of the Act based on a qualifying relationship with a citizen of the United States.

A. No Qualifying Relationship

On appeal, the Petitioner states that she was married to her ex-husband for over twenty years but unfortunately did not keep very good records evidencing their marriage. She submits two affidavits from acquaintances attesting to her marriage to J-N- along with documents relating to her ex-husband's criminal activities involving controlled substance violations and photocopies of previously submitted documentation. However, no evidence was provided on appeal to establish that the Petitioner's ex-husband is now or ever was a United States citizen.

Under section 204(a)(1)(A)(iii)(II) of the Act, a VAWA petitioner is described in part as an individual who: 1) is the spouse of a citizen of the United States; 2) believed that they married a citizen of the United States, a marriage ceremony was performed for them, and their marriage is not legitimate solely due to the bigamy of the U.S. citizen; or 3) a spouse of a U.S. citizen within the past two years whose spouse died within the past two years, lost or renounced citizenship within the past two years related to a domestic violence incident, or who demonstrates a connection between the legal termination of the marriage within the past two years and battering or extreme cruelty by the U.S. citizen spouse.

As no evidence has been provided to establish that the Petitioner's ex-husband is now or ever was a United States citizen, the Petitioner has not established her eligibility under section 204(a)(1)(A)(iii)(II) of the Act as the spouse of a United States citizen and therefore has not demonstrated a qualifying relationship to a U.S. citizen as required under section 204(a)(1)(A)(iii)(II)(aa) of the Act.

B. Additional Grounds of Ineligibility

The Director also concluded that the Petitioner has not met her burden of establishing that she entered the marriage with her now ex-husband in good faith. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding whether she meets the additional eligibility requirements for VAWA classification, including whether she entered into the marriage with J-N- in good faith. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

² A search of USCIS systems on appeal reveals no records showing the immigration status of the Petitioner's former spouse.

III. CONCLUSION

The Petitioner has not overcome the basis of the Director's decision and has not demonstrated the requisite qualifying relationship for VAWA classification.

ORDER: The appeal is dismissed.