



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

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

In Re: 20133830

Date: MAY 26, 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 at section 204(a)(1)(A)(iv) of the Act, 8 U.S.C. § 1154(a)(1)(A)(iv), as a child battered or subjected to extreme cruelty by her U.S. citizen parent. The Director 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. Upon *de novo* review, we will remand the appeal

**I. LAW**

A petitioner who is the child of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates that they battered or subjected to extreme cruelty perpetrated by the petitioner's citizen parent. Section 204(a)(1)(A)(iv) of the Act. In addition, a petitioner must show that they are eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, resided with the abusive parent, and are a person of good moral character.

The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). While we must consider any credible evidence relevant to the VAWA petition, we determine, 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). 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).

**II. ANALYSIS**

The Petitioner filed her VAWA petition in May 2019 claiming abuse from her U.S. citizen stepfather, R-L-,<sup>1</sup> with whom she claims she lived from August 2015 until January 2017. With the petition she submitted an affidavit from her mother, school records, medical reports, police reports, a psychological evaluation, civil documents, photographs, and letters of support.

The Director issued a request for evidence (RFE) indicating that the Petitioner had submitted court proceedings for her mother's divorce in Honduras but no divorce decree to show that her mother was

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<sup>1</sup> We use initials to protect individual identities.

free to marry R-L-. The Director referred to U.S. Department of State Foreign Affairs Manual and Visa Reciprocity Index stipulations that the only acceptable document is a marriage folio and that divorces are registered by a family court and not legally valid until registered. In response to the RFE the Petitioner provided a death certificate for J-A-A-J-, who was her father and her mother's spouse, along with a record of registration of her mother's divorce with J-A-A-J-, an affidavit from an attorney in Honduras opining that the Petitioner's mother divorced on [REDACTED] 2015, and testimony from a Honduran consul and public notary. In denying the VAWA petition, the Director determined that the death certificate showed J-A-A-J- died after the mother's marriage to R-L- and that the registration of divorce indicated the marriage was terminated on [REDACTED] 2017, also after the mother's marriage to R-L-, so the Petitioner did not establish a qualifying relationship. A marriage certificate indicates the Petitioner's mother married R-L- on [REDACTED] 2016. The Director acknowledged affidavits submitted by the Petitioner to address the divorce but found them insufficient to show termination of the mother's prior marriage.

On appeal, the Petitioner asserts, through counsel, that her mother's divorce proceedings show the dissolution of marriage occurred on [REDACTED] 2015, and she argues that scrivener's errors resulted in the divorce inscription document reflecting the marital dissolution date was in 2017. The Petitioner claims specifically that an attorney in Honduras communicated the dissolution to the National Registry of Persons (NRP) on [REDACTED] 2017, but the Registry erred in issuing a certificate of inscription in March 2017 indicating that the divorce sentence was issued on [REDACTED] 2017, when in fact that was the date the Dissolution of Marriage was communicated to the NRP, not the date of the dissolution itself. The Petitioner contends that the NRP informed her mother that it could not change information in the system and that a NRP clerk then made a date correction by hand, although the Petitioner maintains that the clerk then erred by indicating that the dissolution date was [REDACTED] 2015, rather than the correct date of [REDACTED] 2015. The Petitioner asserts that errors then compounded when the document was incorrectly translated from [REDACTED] 2015, to [REDACTED] 2017, which is the date cited in the Director's denial. The Petitioner maintains this error has been corrected in a translated document submitted with the appeal.

The Petitioner contends that evidence in total shows her mother was free to marry R-L- and argues that there is a more lenient evidentiary standard for VAWA self-petitioners, that the Director failed to consider all the evidence in the record, and that the Director erred in concluding that divorce is not legally valid until registered. The Petitioner cites sections of Honduran law and argues that her mother's divorce was valid and that a delay in registering the dissolution does not render it null. She further contends that the divorce was recognized by the State of Mississippi which issued her mother a marriage license and where the marriage with R-L- was celebrated.

With the appeal the Petitioner submits a document headed Communication under the seal of the Secretary General of R.N.P. ordering the municipal civil registrar to inscribe the mother's divorce by mutual consent as [REDACTED] 2015, place the resolution along with original documents in the file, and issue the proper certification to interested parties. The Petitioner identifies the document as an amended divorce inscription without providing further description and the document appears to be directing an amendment to the divorce document with interested parties provided notification.

As on appeal the Petitioner has submitted relevant evidence that the Director has not had the opportunity to review, we will remand the matter to the Director to consider this evidence in the first

instance and determine whether the Petitioner has established that she had a qualifying relationship with a U.S. citizen and is otherwise eligible for immigrant classification under VAWA.

**ORDER:** The decision of the Director is withdrawn. The matter is remanded for consideration of new evidence and issuance of a new decision.