



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

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

In Re: 21518586

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 as an abused spouse of a U.S. citizen 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). The Director of the Vermont Service Center denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (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 spouse of a United States citizen may self-petition for immigrant classification if the petitioner demonstrates that they entered into the marriage with a United States citizen spouse in good faith and that during the marriage, the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii)(I) of the Act; 8 C.F.R. § 204.2(c)(1)(i). In addition, petitioners 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 spouse, and are a person of good moral character. Section 204(a)(1)(A)(iii)(II) of the Act; 8 C.F.R. § 204.2(c)(1)(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). 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). Although 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).

**II. ANALYSIS**

The Petitioner, a native and citizen of Honduras, filed her VAWA petition in May 2019 claiming abuse from her U.S. citizen spouse, R-L-.<sup>1</sup> She claims she married R-L- in [REDACTED] 2016 and resided with him from May 2015 until January 2017. With the petition she submitted a personal affidavit, medical records, police reports, civil documents, photographs, and statements of support.

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

The Petitioner submitted a marriage certificate showing she married R-L- on [REDACTED] 2016, and records of court proceedings in Honduras for divorce with her previous husband, J-A-A-J-. Finding this evidence insufficient to determine the Petitioner was free to marry R-L-, the Director issued a request for evidence (RFE) for proof of the legal termination of the Petitioner's marriage with J-A-A-J-. 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 submitted a death certificate for J-A-A-J-, an affidavit from an attorney in Honduras opining that the Petitioner divorced on [REDACTED] 2015, testimony from a Honduran consul and public notary, and a record of registration of divorce with J-A-A-J-. The Director then denied the petition, finding that the Petitioner did not establish she had a qualifying relationship with a U.S. citizen and was eligible for immigrant classification under section 201(b)(2)(A)(i) of the Act.

In denying the petition, the Director concluded that since the death certificate showed J-A-A-J died in September 2019, it did not establish their marriage was legally terminated prior to the Petitioner's marriage to R-L-. The Director further determined that translation of the Record of Registration of Divorce with J-A-A-J indicated that the marriage was terminated on [REDACTED] 2017. The Director noted that to establish a qualifying relationship, the Petitioner must demonstrate all previous marriages were legally terminated prior to inception of the instant marriage, but as termination of her previous marriage occurred after her marriage to R-L- she did not establish a qualifying relationship. The Director acknowledged the affidavits submitted by the Petitioner to support her assertions but found them insufficient to show termination of the prior marriage.

On appeal, the Petitioner asserts, through counsel, that divorce proceedings show her dissolution of marriage occurred on [REDACTED] 2015, and she argues that scrivener's errors resulted in the divorce inscription document reflecting her marital dissolution date in 2017. The Petitioner claims specifically that an attorney in Honduras communicated the dissolution to the National Registry of Persons (NRP) on February 10, 2017, but the Registry erred in issuing a certificate of inscription in March 2017 indicating that the divorce sentence was issued on February 10, 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 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 an additional error occurred when the document was incorrectly translated from [REDACTED] 2015, to [REDACTED] 2017 – the date cited in the Director's denial – but maintains this error has been corrected in a translation submitted with the appeal.

The Petitioner 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 erred in concluding the divorce is not legally valid until registered, and that evidence in total shows she was free to marry R-L-. The Petitioner cites sections of Honduran law and argues that her divorce was valid and 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 a marriage license and where her 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 Petitioner'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 document, which the Petitioner identifies as an amended divorce inscription without providing further description, 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.