



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

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

In Re: 35259378

Date: FEB. 13, 2025

Appeal of Vermont Service Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Abused Spouse of U.S. Citizen)

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen. *See* Immigration and Nationality Act (the Act) section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition as an immediate relative rather than remain with or rely upon an abuser to secure immigration benefits.

The Director of the Vermont Service Center denied the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), concluding that the Petitioner did not establish a qualifying marital relationship, and her corresponding eligibility for immigrant classification. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

We review 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 remand the matter to the Director for the issuance of a new decision.

## I. LAW

A VAWA petitioner who is the spouse or ex-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). Specifically, a petitioner must submit evidence of the 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. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). U.S. Citizenship and Immigration Services (USCIS) shall consider any credible evidence relevant to the VAWA petition; however, the definition

of what evidence is credible and the weight that USCIS gives such evidence lies within USCIS' sole discretion. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

## II. ANALYSIS

The record reflects that the Petitioner, a native and citizen of Mexico, last entered the United States in November 2001, and married her U.S. citizen spouse, T-D-,<sup>1</sup> in Indiana in [ ] 2002. She filed the instant VAWA petition in February 2021 based on a claim of battery and extreme cruelty by T-D-.

On her VAWA petition, the Petitioner indicated that she has only been married one time to her abuser T-D- and remained married to him at the time of filing the VAWA petition. In support of her VAWA petition, the Petitioner submitted, in pertinent part, a copy of her marriage certificate to T-D-.

The Director issued a notice of intent to deny (NOID) the VAWA petition, specifying that they were unable to determine the Petitioner's marital status and requesting documentation to show that she and T-D- were still married. The Director noted that the Petitioner indicated she hadn't lived with T-D- since 2009 and further documentation was required to show they remained married.

In response to the Director's NOID, the Petitioner submitted a Case Summary for case number [ ] filed in [ ] 2009. The Case Summary lists the Petitioner as the petitioner and T-D- as the respondent in a domestic relation case type and specifically indicates a judgement of support and medical insurance for their child. It states that the Petitioner has custody of the minor child, T-D- was ordered to pay child support, and both parties shall provide medical insurance for the child. It further indicates that the case was "disposed" in [ ] 2010.

In denying the VAWA petition, the Director stated that due to the length of time between the date the Petitioner indicated she last lived with T-D- and the date of filing the instant petition, they were unable to determine her marital status. The Director cited to the Case Summary for case number [ ] and stated it indicated that the Petitioner and T-D- filed for divorce on [ ] 2009, and the case was "Disposed of in Error." The Director then concluded that the documentation provided was not sufficient to discern whether the Petitioner and T-D- were still married or if divorce proceedings had been finalized at the time of filing the VAWA petition.

On appeal, the Petitioner submits a copy of a *Verified Petition for Support and Medical Insurance* (petition), filed [ ] 2009, and a copy of an *Agreed Judgment of Support and Medical Insurance* (judgment), filed [ ], 2010, both listing case number [ ]. The petition specifically indicates that the Petitioner and T-D- were married in [ ] 2002 in Indiana and "are not divorced nor is there pending any legal separation or dissolution proceeding" and further addresses the minor child and financial care thereof. Additionally, the judgment refers only to the financial care of the minor child and does not address any divorce filing or proceedings. The Petitioner asserts that she and T-D- remain married and divorce filings have never been pursued. She contends that the case summary, petition, and judgment solely indicated T-D-'s obligation to provide financial support and medical insurance for their minor child and was not in pursuit of a divorce.

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<sup>1</sup> We use initials to protect the privacy of individuals.

Upon de novo review, based on the evidence submitted on appeal, the Petitioner has demonstrated, by a preponderance of the evidence, that she remains married to T-D- and the record does not contain any evidence to the contrary at this time. Based on the foregoing, the Petitioner has submitted sufficient evidence to establish, by a preponderance of the evidence, that she has a qualifying marital relationship with a U.S. citizen for purposes of immigrant classification under section 204(a)(1)(A)(iii) of the Act and is eligible for immediate relative classification based on such a relationship. Because the sole ground for denial of the VAWA petition has been overcome on appeal, we remand the matter to the Director to consider whether the Petitioner has satisfied the remaining eligibility requirements for immigrant classification under VAWA.

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