



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

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

In Re: 33773868

Date: SEP. 09, 2024

Appeal of Vermont Service Center Decision

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

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 petition, concluding that the record did not establish that the Petitioner was legally free to marry her U.S. citizen spouse. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). 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 withdraw the Director's decision and remand the matter for entry of a new decision.

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 the petitioner was 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 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(c)(2)(ii).

The Petitioner filed her Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition) in September 2018. The Director, after issuing a request for evidence, denied her VAWA petition, concluding that the Petitioner had not established a qualifying relationship. Notably, the Petitioner had indicated that she was married prior to her marriage with her U.S. citizen spouse but did not provide evidence of the legal termination of that marriage.

On appeal, the Petitioner provides a copy of the divorce decree issued in Mexico, accompanied by English language translation, from her prior marriage to A-B-G-¹, which indicates that the marriage was dissolved in [] 2013, prior to her marriage to A-M-, her U.S. citizen spouse, in [] 2013.

¹ We use initials to protect the identity of individuals.

As the Petitioner has provided evidence with her appeal relating to the Director's sole ground of denial, it is appropriate for us to remand the matter to the Director to consider this evidence in the first instance, and to determine whether the Petitioner has otherwise met the requirements for classification under VAWA.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision.