U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33774715

Date: SEP. 17, 2024

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse 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 of U.S. Citizen (VAWA petition), concluding that the Petitioner did not establish a qualifying marital relationship, and her corresponding eligibility for immigrant classification. On appeal, the Petitioner asserts her eligibility. Upon de novo review, we will dismiss the appeal.

I. LAW

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 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). Petitioners are "encouraged to submit primary evidence whenever possible," but may submit any relevant, credible evidence in order to establish eligibility. 8 C.F.R. § 204.2(c)(2)(i). U.S. Citizenship and Immigration Services (USCIS) determines, 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 citizen of the Republic of Georgia (Georgia), indicated on her VAWA petition that she had only ever been married to her abuser, R-B-.[1] In support of her VAWA petition, the Petitioner submitted a copy of her 2017 [redacted] marriage certificate to R-B-. The Director issued a request for evidence (RFE) informing the Petitioner that on her nonimmigrant visa application in 2014, she

[1] We use initials to protect the privacy of individuals.

stated that she was married to M-T-. Therefore, the Director requested that the Petitioner submit proof of the legal termination of her marriage to M-T-, such as a final (absolute) divorce decree, a death certificate, or annulment.[2] The Petitioner submitted a letter from [redacted] in [redacted] The letter stated that the Petitioner and M-T- ". . . as spouses do not live together since July 2015 and their church marriage has been canceled since September 2015." The Petitioner argued that this letter constituted a formal certificate of divorce issued by the [redacted]

The Director denied the petition noting that the Department of State's (DOS's) Foreign Affairs Manual confirms that only the Ministry of Justice and the Public Service Development agency (Ministry) is authorized to issue divorce certificates. The Director further noted that the letter could not be verified online at the Ministry's website (https://intpass.sda.gov.ge/CheckAct.apsx) for Georgia certificates of divorce because it did not contain a certificate number. The Director concluded that because the Petitioner's marriage to M-T- was not properly terminated, her marriage to R-B- was invalid. Therefore, the Petitioner did not demonstrate that she had a qualifying relationship with a United States citizen or lawful permanent resident or that she was eligible for immigrant classification under section 201(b)(2)(A)(i) or 203(a)(2)(A) of the Act.

On appeal, the Petitioner argues that the Director erred in "requesting evidence that cannot be reasonably obtained."[3] She now claims that her first marriage was a religious one, not recognized by Georgia, and therefore created no legal impediment to her marriage to R-B-. She claims the letter was proof of the termination of her religious marriage. In Georgia, the Civil Code provides that marriage is the voluntary union of a woman and a man for the purpose of creating a family which is registered with a territorial office of the legal Entity under Public Law (LEPL) – Public Service Development Agency operating within the governance of the Ministry of Justice. *See* https://matsne.gov.ge/en/document/view/31702?publication=131. Consequently, a marriage in Georgia must be registered with the Ministry to be valid. Similarly, divorce documentation can only be obtained through the Ministry according to the DOS's Reciprocity Schedule. *See* https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Georgia.html.

Upon de novo review, we determine that the Petitioner has not established a qualifying marital relationship as she has not provided sufficient proof of the legal termination of her first marriage, as required. 8 C.F.R. § 204.2(c)(2)(ii). 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 such evidence. *See* section 204(a)(1)(J) of the Act and 8 C.F.R. § 204.2(c)(2)(i). As stated, the Petitioner must prove eligibility for the requested immigration benefit by a preponderance of the evidence. To satisfy this standard of proof, the Petitioner must show that what

[2] We note that the Director issued a second RFE requesting the same information because the Petitioner's response was determined to be lost.

[3] The Petitioner indicated that she would submit a brief and/or additional evidence to the AAO within 30 calendar days of filing the appeal. To date, we have not received a brief nor any additional evidence.

she claims is "more likely than not" or "probably" true. *Matter of Chawathe*, 25 I& N Dec. at 375-76. To determine whether the Petitioner has met this burden we consider not only the quantity but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). In her nonimmigrant visa application, the Petitioner indicated that she was married, but she has not explained why she declared herself to be married on her nonimmigrant visa application if her religious marriage was not recognized in Georgia. She did not disclose that she was previously married in her VAWA petition or in her accompanying statement. Until she submitted the letter from [redacted] she had not disclosed that her marriage to M-T- was religious in nature. Moreover, other than submitting the letter, she has not addressed the circumstances of her first marriage or even identified the date she married in Georgia. The letter she now submits below does not prove the marriage was religious. There is no new statement from the Petitioner describing her divorce from M-T- and she does not assert that the marriage certificate for her first marriage is unavailable. Without the submission of this marriage certificate, we are unable to ascertain that the Petitioner's first marriage was not civil, but a religious marriage and was therefore not an impediment to the Petitioner marrying in [redacted] Moreover, the Petitioner did not submit adequate documentation from Georgia confirming that she was free to marry, such as a Certificate of No Impediment to Marriage from the Ministry or any evidence that her marriage was not registered with the Ministry. Therefore, even if the Petitioner married R-B- in good faith, without sufficient evidence of the legal termination of her first marriage, we do not find that the Petitioner has met her burden of establishing a qualifying marital relationship with a U.S. citizen for purposes of immigration classification under section 204(a)(1)(A)(iii) of the Act.

Because the Petitioner did not demonstrate a qualifying marital relationship, she also did not establish that she is eligible for immediate relative classification based on such a relationship. The petition will therefore remain denied.

ORDER: The appeal is dismissed.