



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

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

In Re: 25839879

Date: NOV. 30, 2023

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 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 (Director) denied the petition, concluding that the Petitioner did not establish that she had a qualifying relationship with a U.S. citizen or lawful permanent resident (LPR). The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner submits additional evidence and previously submitted evidence, and reasserts her eligibility for the benefit sought.

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 consistent with the following analysis.

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 native and citizen of Venezuela, first entered the United States in April 2016 on an exchange visitor visa. The Petitioner married D-W-P-¹ in [] 2017. The Petitioner filed the instant VAWA petition in January 2020 based on that marriage. The Petitioner submitted initial evidence with her VAWA petition.² The Director subsequently issued a request for evidence (RFE), seeking evidence of D-W-P-'s U.S. citizenship. In response, the Petitioner submitted a personal statement, and a copy of an unfiled Form I-130, Petition for Alien Relative (Form I-130). The Director acknowledged this evidence, but determined that it was insufficient to establish that the Petitioner has a qualifying relationship with a U.S. citizen or lawful permanent resident (LPR).

On appeal, the Petitioner disputes the Director's determination. She states that D-W-P- told her that he was born in Louisiana in [] 1984, which is consistent with the Form I-130, in which he listed his social security number and [] Louisiana as his place of birth. In addition, she submits evidence related to her effort to obtain a copy of D-W-P-'s Louisiana birth certificate.

A recent review of government records confirms the Petitioner's contention that D-W-P- was born in the United States. We therefore find that the Petitioner has established that she has a qualifying relationship with a U.S. citizen or lawful permanent resident (LPR). Accordingly, we will remand the matter to the Director for consideration of whether the Petitioner satisfies the remaining statutory eligibility criteria for VAWA classification under section 204(a)(1)(A)(iii) of the Act.

ORDER: The decision of the Director is withdrawn.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

¹ Initials are used to protect the individual's privacy.

² The Petitioner submitted a personal statement, identification documents, copies of her marriage certificate, police, court and protective order documents, bank statements and utility bills, a background check report from the Indiana State Police, and multiple affidavits from family and friends.