



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

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

In Re: 18201133

Date: MAY 3, 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 Abused Spouse or Child of U.S. Citizen (VAWA petition). The matter is now before us on appeal. On appeal, the Petitioner submits evidence and a brief asserting her eligibility. The Administrative Appeals Office reviews 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 dismiss the appeal.

## I. LAW

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if they demonstrate they entered into the marriage in good faith and were battered or subjected to extreme cruelty perpetrated by the spouse. Section 204(a)(1)(A)(iii)(I) of the Act. The petitioner must also 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. 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). While we must consider any credible evidence relevant to the VAWA self-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 Mexico, entered the United States without inspection in September 2012 and filed her VAWA petition in October 2018. The Petitioner claimed to have been in a common law marriage in Texas with O-R-J-<sup>1</sup> a U.S. citizen, and to have resided with him from [ ] 2017 to [ ] 2018. In denying the VAWA petition, the Director determined that the Petitioner did not establish a qualifying relationship as the spouse of a U.S. citizen, eligibility for immigrant classification based on the qualifying relationship, or that she is a person of good moral character.

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

The Director initially reviewed the Petitioner's statement and vehicle insurance declaration page, noting that these documents alone were insufficient evidence of a common law marriage to O-R-J-. Furthermore, the Director mentioned the Petitioner's claim that she entered into a common law marriage in [ ] 2017, but in an [ ] 2017 police incident report she referred to O-R-J- as her boyfriend. The Director issued a request for evidence (RFE), specifically asking for a marriage declaration form, signed by the Petitioner and O-R-J-, or evidence of an agreement between the two to be married and that they represented themselves as married to others. In response to the RFE, the Petitioner submitted a statement from her friend M-M-, a patient summary for O-R-J-, and a mental health safety plan for O-R-J-. In her statement, M-M- mentioned that she met the Petitioner and O-R-J- at church and they presented themselves as married to the church congregation. However, the Director found that M-M-'s statement did not provide sufficient detail regarding the Petitioner's relationship with O-R-J- to establish they entered into a common law marriage. In regard to the 2019 patient summary and mental health safety plan, the Director noted O-R-J- listed the Petitioner as his wife. However, the Director found that this conflicted with the Petitioner's statement in which she claimed to have left O-R-J- completely in [ ] 2018 and started a new life with her children after he violated a court order. Based on the record, the Director determined that the Petitioner did not represent to others that she was married to O-R-J-, and as such, she did not establish a qualifying relationship as the spouse of a U.S. citizen or eligibility for immigrant classification based on the qualifying relationship.

On appeal, the Petitioner asserts that the evidence presented establishes she was in a common law marriage with O-R-J- in Texas. The Petitioner claims that M-M-'s statement was not deficient in establishing that she and O-R-J- represented to others that they were married. Specifically, M-M- states where she met the couple, in church classes at [ ] in [ ] Texas, she heard the couple say in front of the congregation that they were husband and wife, she saw them at church every Sunday, and she visited their home to provide marriage counseling. The Petitioner also refers to a previously submitted statement from another friend, O-R-. O-R- stated that the Petitioner presented O-R-J- to her as her husband and she visited them at their home. Furthermore, the Petitioner refers to the May 2019 patient summary and June 2019 mental health safety plan in which O-R-J- identified her as his spouse, and the May 2017 auto insurance declarations page listing their marital status as married. Lastly, the Petitioner states that the police incident report dated [ ] 2017, where she described O-R-J- as her boyfriend, predates the other evidence of the couple's declarations that they were husband and wife; and the police report identified her children as the stepchildren of O-R-J-, therefore indicating they were married.

In order to determine the validity of a marriage for immigration purposes, we look to "the law of the place of celebration of the marriage." *Matter of Arenas*, 15 I&N Dec. 174 (BIA 1975). Under the law in Texas, an "informal marriage," also known as a common law marriage, is formed when a couple agrees to be married, lives in the state of Texas as a married couple, and represent to others that they are married. Texas Family Code § 2.401(a)(2).<sup>2</sup>

Upon review of the record, the Petitioner has not established by a preponderance of the evidence that she was in a common law marriage with O-R-J-. The record does not include statements from the Petitioner and O-R-J- showing mutual agreement to be married or otherwise establishing this

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<sup>2</sup> A couple may also establish a common law marriage under Texas Family Code § 2.401(a)(1) by filing a declaration of informal marriage with a county clerk, but the Petitioner is not asserting that this occurred.

requirement. In regard to whether the Petitioner and O-R-J- lived in Texas as a married couple and represented to others that they were married, the record includes inconsistencies and a lack of documentary evidence to establish these requirements. In her statement submitted with the VAWA petition, the Petitioner does not describe O-R-J- as her spouse or otherwise describe them representing themselves to others as husband and wife. In the VAWA petition, dated October 2018, the Petitioner listed her date of marriage as [ ] 2017, and her dates of residence with O-R-J- as [ ] 2017, until [ ] 2018. However, in her statement, the Petitioner mentioned that she started living with O-R-J- in March 2017. The police incident report from [ ] 2017 referenced the Petitioner's statement that "her boyfriend" discharged a firearm inside a vehicle and "her children" were in the vehicle. In no place does the police incident report refer to O-R-J- as the Petitioner's spouse or refer to her children as O-R-J-'s stepchildren. In addition, the record includes a family service plan from October 2017 related to O-R-J-'s harmful behavior and an undated petition from the Department of Family and Protective Services from [ ] 2017, both identifying O-R-J- as the Petitioner's "paramour."

The record includes an insurance declarations page, dated May 5, 2017, listing the Petitioner and O-R-J- as married. However, no other records mentioned in the RFE have been submitted including, but not limited to, bank statements, tax records, joint ownership of property, credit card records, employment records, or church records. The record also includes a previously submitted statement from O-R-J-'s mother. She stated that she recognized their relationship to be matrimonial. However, O-R-J-'s mother provided minimal detail on how she determined this. While we acknowledge and consider the statements from M-M-, and O-R-, they are not sufficiently detailed and do not help overcome the inconsistencies and overall lack of evidence in the record that the Petitioner and O-R-J- lived in Texas as a married couple and represented to others that they were married.

The Petitioner has submitted insufficient and inconsistent evidence regarding her claim of a common law marriage to a U.S. citizen. As such, she has not established by a preponderance of the evidence that she had a qualifying relationship as the spouse of a U.S. citizen and is eligible for immigrant classification based on the qualifying relationship. As we determined that the Petitioner has not established by a preponderance of the evidence that she had a qualifying relationship as the spouse of a U.S. citizen and is eligible for immigrant classification based on the qualifying relationship, we decline to reach and hereby reserve the Petitioner's arguments regarding whether she is a person of good moral character. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

**ORDER:** The appeal is dismissed.