



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

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

In Re: 21122224

Date: SEP. 20, 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 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 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. On appeal, the Petitioner submits additional evidence and asserts her eligibility. Upon *de novo* review, the appeal will be sustained.

## 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(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). 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 from Dominica, indicated on her VAWA petition that she had been married two times. In support of her VAWA petition, the Petitioner submitted, in pertinent part, a copy of her marriage certificate to S-H-<sup>1</sup>. The Director issued a request for evidence (RFE), seeking, among other things, proof of the legal termination of the Petitioner's prior marriage(s). The Petitioner responded

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

to the RFE with additional evidence, submitting a copy of an entry from the Register Book of Marriages and a Certificate of Divorce for the Petitioner's marriage with her first spouse, O-H-. However, the Director noted that the Department of State's Foreign Affairs Manual and the Department of State's Visa Reciprocity Index indicated that a divorce in Saint Kitts and Nevis, the location where the Certificate of Divorce was issued, is recognized or recorded with a document called a "Decree Absolute," and further explained that there were no alternative documents that replace the Decree Absolute in Saint Kitts and Nevis. The Director therefore determined that the Petitioner had not demonstrated that she had a qualifying relationship as required.

On appeal, the Petitioner submits another copy of the Certificate of Divorce, as well as a copy of the Saint Christopher and Nevis Divorce Act. The Petitioner states that she "believe[s] that it was erroneously decided that [her] previous marriage was not legally terminated. A copy of the divorce certificate and the relevant law attesting to the certificate being the proof of termination are attached." Upon review of the Saint Christopher and Nevis Divorce Act, we note that it states:

Where a divorce or annulment becomes effective in accordance with the provisions of this section, a judge or officer of the Court that delivered the judgment granting the divorce or annulment or, where that judgment was appealed, of the appellate Court that delivered the judgment on final appeal, shall, on request, issue to any person a certificate in the form specified in the schedule that a divorce or annulment granted under this Act dissolved the marriage of the specified persons effective as of a specified date. (*Amended by Acts 14 of 2006 and 18 of 2007*)

*Divorce Act*, Chapter 12.03, Part II 13(7), Laws of Saint Christopher and Nevis, Revised 31 Dec. 2009.

We confirmed with government officials representing the Federation of Saint Christopher (Saint Kitts) and Nevis, that divorce in that country is no longer recorded with a "Decree Absolute" and that the document is now called a "Certificate of Divorce" as was provided by the Petitioner. The government official further noted that the Petitioner's Certificate of Divorce bears the signature of the Registrar and the seal of the High Court of Saint Christopher (Saint Kitts) and Nevis. Further, in our review, the Certificate of Divorce provided by the Petitioner resembles that found in the schedule section of the *Divorce Act*.

Therefore, in our *de novo* review, we determine that the Petitioner has established that she provided sufficient evidence of the legal termination of her first marriage, and that the Petitioner has met her burden of establishing a qualifying marital relationship with a U.S. citizen under section 204(a)(1)(A)(iii) of the Act. We withdraw the Director's determination to the contrary. We determine that the Petitioner has satisfied all remaining grounds of eligibility under section 204(a)(1)(A)(iii) of the Act, and as such, the Petitioner's appeal is sustained.

**ORDER:** The appeal is sustained.