



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

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

In Re: 25985166

Date: MAY 12, 2023

Appeal of Vermont Service Center Decision

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

The Petitioner seeks immigrant classification as an abused spouse of a U.S. citizen. *See* Immigration and Nationality Act (the Act) section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition as an immediate relative rather than remain with or rely upon an abuser to secure immigration benefits. 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: 1) a qualifying marital relationship, and her corresponding eligibility for immigrant classification, 2) that she is a person of good moral character, and 3) that she entered into the marriage with her U.S. citizen spouse in good faith. The matter is now before us on appeal. On appeal, the Petitioner submits additional evidence and asserts her eligibility.

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 sustain the appeal.

I. LAW

A VAWA petitioner who is the spouse or ex-spouse of a United States citizen may self-petition for immigrant classification if the petitioner demonstrates that they entered into the marriage with a United States citizen spouse in good faith and that during the marriage, the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii)(I) of the Act; 8 C.F.R. § 204.2(c)(1)(i). In addition, petitioners must show that they are eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, and 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). Petitioners must also show that they resided with the abusive spouse and are a person of good moral character. Section 204(a)(1)(A)(iii)(II) of the Act; 8 C.F.R. § 204.2(c)(1)(i). U.S. Citizenship and Immigration Services (USCIS) evaluates a VAWA petitioner's claim of good moral character on a case-by-case basis, considering the provisions of section 101(f) of the Act and the standards of the average citizen in the community. 8 C.F.R. § 204.2(c)(1)(vii). As explained in policy guidance, USCIS generally examines the three-year period immediately preceding the date the VAWA petition is filed. *See* 3 *USCIS Policy Manual* D.2(G)(1), <https://www.uscis.gov/policy-manual>. Primary evidence of a petitioner's good moral character is their affidavit, which should be accompanied by local police clearances or state-issued criminal background

checks from each of the petitioner's residences during the three years before the petition was filed. 8 C.F.R. § 204.2(c)(2)(v). A petitioner who lived outside the United States during this time should submit a police clearance, criminal background check, or similar report issued by the appropriate authority in each foreign country in which they resided for six or more months, and if such documentation is not available, a petitioner may include an explanation and submit other evidence with their affidavit. *Id.* USCIS will consider other credible evidence of good moral character, such as affidavits from responsible persons who can knowledgeably attest to a petitioner's good moral character. *Id.*

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). USCIS shall consider any credible evidence relevant to the VAWA petition; however, the definition of what evidence is credible and the weight that USCIS gives such evidence lies within USCIS' sole discretion. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. ANALYSIS

The record reflects that the Petitioner, a native and citizen of Mongolia, last entered the United States in May 2019 on a nonimmigrant fiancée visa, and married her U.S. citizen spouse, B-B-J-,¹ in Illinois in [] 2019. She filed the instant VAWA petition in February 2020 based on a claim of battery and extreme cruelty by B-B-J-.

A. Eligibility for Immigrant Classification

On her VAWA petition, the Petitioner indicated that she and her abuser, B-B-J-, had both been married two times.² In support of her VAWA petition, the Petitioner submitted, in pertinent part, a copy of her marriage certificate to B-B-J- and a copy of her marriage annulment from B-O-S-, her first husband, in Mongolia. The submitted Annulment Registration, issued by the General Authority for State Registration in Ulaanbaatar City, recognizes that the annulment took place in [] 2015.

The Director issued a request for evidence (RFE), specifying that, during an interview with a Department of Homeland Security (DHS) Officer in March 2018, the Petitioner stated that she also divorced O-U-. The Director requested that the Petitioner submit evidence of the legal termination of her marriage to O-U-, but the Petitioner did not submit this documentation or other explanation in response to the Director's RFE and the Director denied the petition.

On appeal, the Petitioner re-submits a copy of her Annulment Registration and a document titled Reference for No Record of a Marriage, issued by the General Authority for State Registration in [] dated [] 2018. This document certifies that there is no record of a marriage for the Petitioner after divorce. Though the Petitioner does not reference this issue in her statement on appeal, she submits a letter from Counsel, dated October 2022, stating that documents regarding termination of a marriage to O-U- cannot be provided because the Petitioner was never married to him. It clarifies that the Petitioner had a child with O-U-, but they did not enter into a legal marriage.

¹ We use initials to protect the privacy of individuals.

² The record contains a copy of B-B-J-'s Judgement for Dissolution of Marriage, dated [] 2011.

The Petitioner also submits a letter from her adult son, K-O-, indicating that O-U- is his biological father but he has never known him because O-U- left him and his mother when he was born and, according to his recollection, his mother and father were never officially married.

After a careful review of the entire record, including the evidence submitted on appeal, the Petitioner has demonstrated, by a preponderance of the evidence, that she was only married once before and that her prior marriage was terminated. Based on the historical documentation in the record, and the clarification made on appeal, the evidence in the record demonstrates that the Petitioner has a qualifying marital relationship with a U.S. citizen for purposes of immigrant classification under section 204(a)(1)(A)(iii) of the Act and is eligible for immediate relative classification based on such a relationship. As such, we will withdraw the Director's decision as it pertains to this issue.

B. Good Moral Character

The Petitioner last entered the United States in May 2019 and filed her VAWA petition in February 2020. She submitted evidence that she was fingerprinted in the United States and a Mongolia National Police Department Reference letter from the Head of Information, Analysis and Urgent Management Department, Police Colonel in [REDACTED] dated April 2019, certifying that the Petitioner "was never subject to criminal responsibility" in Mongolia.

The Director's RFE requested that the Petitioner submit a self-affidavit attesting to her good moral character and more specifically, her criminal history, if any. It specified that if she did not have a criminal history, she should state that in her affidavit. The RFE also indicated that in the alternative, the Petitioner may submit criminal history clearances or records from each place she resided for at least six months during the 3-year period before filing her VAWA petition. However, the Petitioner did not submit this documentation or other explanation in response to the Director's RFE and the Director denied the petition. In denying the petition, the Director noted that the record contains evidence to support that the Petitioner has no criminal history during her time in the United States, but she did not submit evidence for the period of time prior to entering the United States. In the decision, the Director did not acknowledge the April 2019 Mongolia National Police Department Reference letter certifying that the Petitioner "was never subject to criminal responsibility" Mongolia.

On appeal, the Petitioner does not submit a self-affidavit attesting to her good moral character or her criminal history, if any. The Petitioner re-submits a copy of the previously submitted Reference letter from the Mongolia National Police Department. The Petitioner also submits letters from friends and family generally attesting to her good character and some specifically stating that she is trustworthy and honest, an asset to the community, a law-abiding citizen who has paid her taxes and has not committed any crimes in Mongolia or in the United States. The Petitioner includes copies of her Internal Revenue Service (IRS) Forms 1040, U.S. Individual Income Tax Return, for 2020 and 2021.

Although the Petitioner has not submitted a self-affidavit attesting to her good moral character, the record includes a Mongolia National Police Department Reference letter dated April 2019, certifying that the Petitioner "was never subject to criminal responsibility" in Mongolia. On the basis of this Reference letter and letters from friends and family attesting to her good character, the Petitioner has submitted sufficient evidence to establish her good moral character by a preponderance of the

evidence, as required by section 204(a)(1)(A)(iii)(II)(bb) of the Act. *See also Matter of Chawathe*, 25 I&N Dec. 369 at 375-76. As such, we will withdraw the Director's decision as it pertains to this issue.

C. Good Faith Marriage

In a statement before the Director,³ the Petitioner stated that she has known B-B-J- since childhood and that after many years, they saw each other again in July 2017. She explained that they were both happy to see each other again after many years and were surprised to learn they were both single at that time. She stated that they have been happy together ever since.

The Petitioner also submitted a partial statement from B-B-J-⁴ indicating that he first met the Petitioner in High School and they were neighbors in Mongolia. He explained that he traveled to Mongolia in July 2017 when they met again at a dental clinic, where the Petitioner was the Head Manager,⁵ and they had a nice talk about their memories. He recalled that when he went to the dental clinic for a follow-up visit, he asked the Petitioner for her telephone number. He stated that they spoke on the phone and discussed old memories and had dinner one evening prior to the end of his vacation in Mongolia. He explained that after one year, about August 2018, he visited Mongolia again to see the Petitioner, then his fiancée, and they discussed their future and realized that they had the same ideas and were a perfect match.

The Petitioner submitted a letter from her father, B-D-, indicating that she and B-B-J- have known each other since childhood and in August 2018, B-B-J- told him he wanted to live with and marry the Petitioner. He indicated that he became close with B-B-J- in August to September 2018, while B-B-J- visited his home in Mongolia. The Petitioner also submitted a letter from B-B-J-'s brother, O-B-, indicating that he met the Petitioner around August 2017, while B-B-J- was visiting Mongolia and he drove him to the dentist. He indicated that his brother introduced him to the Petitioner and told him he has known her since childhood. Additionally, the Petitioner submitted a letter from her niece, M-E-, indicating that she was present on several occasions where she witnessed the Petitioner and B-B-J- video chatting prior to August 2018. She indicated that in October 2017, the Petitioner showed her a photo of B-B-J- and told her that they were in a relationship and the Petitioner was very happy. She recalled that in August 2018, B-B-J- visited her grandparents' home where he met the rest of the family and they had a barbecue to welcome him. The Petitioner then submitted an e-mail statement from a former neighbor, D-S-, indicating that the Petitioner and B-B-J- lived together as his neighbors from June to November 2019. He further stated that he is grateful the Petitioner moved away as he feared for her safety. Finally, the Petitioner submitted photographs of herself and B-B-J- from 2017 to 2019—some surrounded by family, others with grandchildren, while in Mongolia and in the United States—and included explanations for the dates and occasions being photographed.

In denying the VAWA petition, the Director outlined discrepancies in the record regarding when and how the Petitioner met B-B-J-. The Director noted that, in her statement, the Petitioner indicated that she has known B-B-J- since childhood and, after not seeing each other for many years, she met him

³ The Petitioner initially submitted this statement in support of a Form I-129F, Petition for Alien Fiancée (Form I-129F), filed on her behalf by B-B-J-, and again with her VAWA petition.

⁴ B-B-J-'s full statement was also initially submitted in support of the Form I-129F.

⁵ The Petitioner submitted a letter from [REDACTED] Dental Clinic indicating that she was employed as Head Manager for 13 years, beginning in May 2006.

again in July 2017 when he came to her place of employment for services and they were happy to see each other after those many years. Further, the letters from the Petitioner's father and B-B-J-'s brother both specifically indicate that the Petitioner and B-B-J- have known each other since childhood and reconnected during B-B-J-'s visit to Mongolia in 2017. Furthermore, the letter from her niece indicates that she was present when the Petitioner was in contact with B-B-J- through video chat and that she saw B-B-J- in person in August 2018. The Director observed however, that all of these statements differed from the Petitioner's claims to police in November 2019.⁶ The Director noted that, according to a [REDACTED] County Incident Summary Report, dated November 2019, the Petitioner stated to police that she had known B-B-J- since 2017. Further, at a later interview the same month, the Petitioner told the police that she met B-B-J- at a dentist office two years prior (which would have been about 2017) where they exchanged business cards and got to know one another. The Petitioner reported that she and B-B-J- started to message each other in February 2018 and B-B-J- visited Mongolia in August 2018 in order to get to know each other's families. Finally, the Director indicated that the Petitioner directly informed the police officer that she met B-B-J- in 2017 and they started to get to know each other after this meeting, but in her personal statement, and those of other family members, she claimed that she has known B-B-J- since childhood. The Director concluded that, due to the discrepancies in the Petitioner's statements, and the lack of documentary evidence, the record did not establish that the Petitioner entered into her marriage with B-B-J- in good faith.

On appeal, the Petitioner asserts that she has submitted all of the evidence available to her as B-B-J- did not give her any access to their joint bank accounts, credit cards, or anything else they shared together during their marriage. In her statement, the Petitioner indicates that she first knew B-B-J- as a child and, many years later, met him again in July 2017 at her dental clinic. She states that they chatted often and B-B-J- visited Mongolia in July 2018 to meet her family and introduce her to his family. She provides various details about their stay together and the development of her feelings for B-B-J-. She states that they discussed where they would live as a couple and, though she suggested he move to Mongolia because she had a stable job and a place to live, which would afford him time to find a job in Mongolia and settle down, B-B-J- wanted her to move to the United States with him, which is what they decided to do. Once B-B-J- returned to the United States, she indicates they had frequent video calls. She recalls that when she finally arrived in the United States, they moved to [REDACTED] IL and rented a house, but after they started living together, B-B-J- began to behave strangely and told her that he was old so she had to get a job and take care of him and do whatever he told her to, which is when the abuse began.

The Petitioner submits a letter from her older sister, B-B-, where she recalls that the Petitioner liquidated all her assets in Mongolia, such as her apartment, real estate, and car, as well as her life's savings, for which she had worked exceptionally hard for all her life, in order to marry and live with B-B-J- in the United States. The Petitioner also submits a letter from her mother, A-D-, indicating that she and the Petitioner's father first met B-B-J- in September 2018 when the Petitioner introduced him as her future spouse. She stated that when she first saw him, she had not realized that he was the son of their neighbor from 40 years ago. She indicated that when she met him again (in September 2018), he had gone to Mongolia solely to ask for the Petitioner's hand in marriage as is Mongolian

⁶ The Petitioner provided a [REDACTED] County Incident Summary Report, dated November 2019, outlining instances of emotional, physical, and sexual abuse of the Petitioner by B-B-J-. The Petitioner also provided an Order of Protection against B-B-J-, granted for two years.

traditional custom. She indicated that while he was in Mongolia, he visited them regularly, helped with daily chores, and seemed to be a good person. The Petitioner's mother observed that when she saw the Petitioner and B-B-J- together, they seemed caring for each other and happy. She specifically states that the Petitioner sold her apartment and left a good job in Mongolia to move to the United States and live happily with B-B-J-. She concludes by stating that she regrets supporting their marriage and is angry that B-B-J- took advantage of the Petitioner and scammed her out of her life's savings. In his letter, the Petitioner's adult son, K-O-, indicated that he met B-B-J- in August 2018 when B-B-J- was living with the Petitioner in Mongolia during his visit. He stated that the Petitioner introduced B-B-J- to him as her future spouse and he visited them often to see how B-B-J- treated his mother. He indicated that his family spent a lot of time with B-B-J- during his visit and his three children grew so close to B-B-J- that they began calling him grandfather. He stated that his mother seemed very happy with B-B-J-, but he still worried because she left her high position at a well-paying job and sold her real estate in Mongolia to follow B-B-J- to the United States. Additionally, the Petitioner submits a second e-mail statement from D-S- indicating that he was a neighbor of the Petitioner and B-B-J- for most of 2019. He further stated that they appeared to be a great couple and he did a lot with them grilling food and hanging out.

Upon de novo review, we conclude that the preponderance of the evidence reflects that the Petitioner entered into the marriage with B-B-J- in good faith. First, although the Petitioner did not provide details to the Director regarding her courtship with B-B-J- or otherwise demonstrate her intent in marrying him, on appeal the Petitioner has provided this information, along with additional statements from individuals who witnessed their relationship from its inception. The record indicates that the Petitioner and B-B-J- reunited at her dental clinic while B-B-J- was visiting Mongolia and re-kindled a friendship that evolved into a romantic relationship in which B-B-J- traveled back to Mongolia to visit her, meet her family, and introduce her to his family. The record further shows that the courtship culminated in the Petitioner's decision to travel to the United States, with an approved nonimmigrant fiancée visa, to marry B-B-J- with the support of their families. The record also includes documentary evidence that the Petitioner and B-B-J- rented an apartment for themselves and lived together throughout 2019. In addition, in light of the Petitioner's statement that B-B-J-'s behavior toward her changed after they were married and living together and evidence of the November 2019 Incident Summary Report outlining instances of abuse and battery of the Petitioner by B-B-J- and a subsequent order of protection against him, we find the Petitioner's explanation regarding the lack of additional documentary evidence to be credible.

Second, the Director's decision outlines alleged discrepancies in the Petitioner's personal statements (and those provided by other family members on her behalf) and the Incident Summary Report to police in November 2019, indicating that the Petitioner directly informed the police officer that she met B-B-J- in 2017 and they started to get to know each other after this meeting, but in her personal statement, and those of other family members, she claimed that she has known B-B-J- since childhood. However, the Director's focus on the language used by the Officer in the Incident Summary Report is misplaced because the Officer specifically stated that they wrote the report in their own words, as follows:

For brevity and clarity I have summarized and paraphrased the interview. The words I have chosen for this report may or may not be exactly the words used during the interview. For an exact account of the interview, the original recording should be

reviewed. The following is a summary of what [the Petitioner] told [the reporting Officer] . . .

Essentially, the Director's focus on the exact language used by the Officer in the Incident Summary Report, that "two years ago [the Petitioner] became *more acquainted* with [B-B-J-] when they met at a dentist office where [the Petitioner] worked," (emphasis added) to discredit the Petitioner's statements in the record is misplaced. Here, the Petitioner, B-B-J-, and several of their family members have consistently indicated that she and B-B-J- knew each other from childhood and, after many years, were reunited in July 2017 when B-B-J- was visiting Mongolia and entered her place of work, a dental clinic. The language in the Incident Summary Report does not directly contradict the Petitioner's description of the inception of her relationship with B-B-J- and does not discredit her and others' statements in the record, nor does it establish that she did not enter into her marriage with B-B-J- in good faith. In this case, the record, when considered in its totality, establishes that the Petitioner has demonstrated by a preponderance of the evidence that she married B-B-J- in good faith, as required by section 204(a)(1)(A)(iii)(I)(aa) of the Act. As such, we will withdraw the Director's decision as it pertains to this issue.

III. CONCLUSION

The Petitioner has established, by a preponderance of the evidence, that she has a qualifying marital relationship and is eligible for immigrant classification; she is a person of good moral character; and she entered into the marriage with her U.S. citizen spouse in good faith. Consequently, she has demonstrated that she is eligible for immigrant classification pursuant to VAWA.

ORDER: The appeal is sustained.