



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: APR 24 2015

FILE #: [REDACTED]
PETITION RECEIPT #: [REDACTED]

IN RE: Petitioner: [REDACTED]

PETITION: Petition for Immigrant Abused Spouse Pursuant to Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iii)

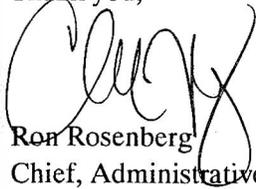
ON BEHALF OF PETITIONER:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Vermont Service Center acting director denied the immigrant visa petition. The Administrative Appeals Office (AAO) summarily dismissed a subsequent appeal. The matter is again before us on motion. The motion will be granted, and our prior decision dismissing the appeal will be affirmed.

The petitioner seeks immigrant classification under section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii), as an alien battered or subjected to extreme cruelty by a United States citizen.

The director denied the petition for failure to establish a qualifying relationship with a U.S. citizen spouse. Specifically, the director explained how the relevant evidence indicated the petitioner's marriage to a U.S. citizen was not valid because she was still married to her first husband.

On motion, the petitioner resubmits evidence that the petitioner's first husband lived in Ohio on the date that his father attempted to obtain a divorce for them by proxy in Ghana, and a statement with relevant citations to precedent decisions. The petitioner's submission meets the requirements for a motion to reconsider at 8 C.F.R. § 103.5(a)(3). Accordingly, the motion is granted.

In our June 27, 2014 decision, we dismissed the petitioner's appeal, noting that the petitioner had failed to identify any specific, erroneous conclusion of law or statement of fact in the director's decision. *See* 8 C.F.R. § 103.3(a)(1)(v) (requiring a dismissal where the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal).

On motion, the petitioner reiterates her prior claim that because her first husband was domiciled in Ohio on the date of the proxy divorce in Ghana, the validity of the divorce should be judged pursuant to Ohio law. In support of this proposition, the petitioner cites *Matter of Weaver*, 16 I&N 730 (BIA 1979). In *Matter of Weaver*, a couple divorced in the Dominican Republic, while domiciled in the Bahamas. 16 I&N at 731. One of the parties subsequently remarried in Connecticut and sought to procure an immigrant visa for his second wife. *Id.* The Board of Immigration Appeals determined that individuals may rely on the validity of a divorce for immigration purposes, *if it is valid in the place where he or she is domiciled* at the time of the divorce. *Id.* at 733 (emphasis added). However, the Board also noted that it would ultimately need to determine whether Connecticut would recognize the divorce to decide whether the subsequent marriage was valid. *Id.* at 733 n.3. In the instant matter, unlike the facts of *Weaver*, the petitioner was domiciled in Connecticut at the time of the divorce. Connecticut law does not recognize foreign divorces where neither party is domiciled in the foreign jurisdiction at the time of the divorce. *Litvaitis v. Litvaitis*, 295 A.2d 519, 546 (Conn. 1972). The petitioner, therefore, never had reason to rely on the validity of the foreign divorce. Whether her spouse, domiciled in a different state, was able to rely on it for other purposes, is not relevant to the instant matter.

Further, the validity of the subsequent marriage is determined by the law of the place in which the marriage was celebrated. *Matter of Hosseinian*, 19 I&N Dec. 453, 455 (BIA 1987). Where a spouse was previously divorced, the law of the state where the subsequent marriage occurred also governs the validity of the prior divorce for immigration purposes. *Id.* The petitioner married her U.S. citizen spouse in Connecticut, and therefore Connecticut law applies when determining

whether the marriage was valid for immigration purposes. The petitioner's assertion on motion that *Matter of Hosseinian* is inapplicable to the instant matter is without merit. The petitioner claims that because her first husband was domiciled in Ohio at the time of the divorce, her subsequent marriage in Connecticut should be valid. However, as previously discussed, Connecticut does not recognize foreign divorces where the parties were not domiciled in the place where the divorced was obtained. *Litvaitis*, 295 A.2d at 546. The petitioner has not pointed to any precedential authority indicating that Connecticut would have regarded the petitioner as legally divorced. Accordingly, the petitioner has not established that her Connecticut marriage to her U.S. citizen intended spouse was valid.

In the alternative, the petitioner, citing an August 21, 2002 memorandum from Johnny N. Williams, former Executive Associate Commissioner of the former Immigration and Naturalization Service, asserts that even if there are irregularities concerning the validity of the marriage, the petitioner is entitled to have her self-petition approved if she entered into the marriage in good faith. The memo notifies field staff of a change in the law that protects a VAWA self-petitioner from the bigamy of her spouse. Section 204(a)(1)(A)(iii)(II)(aa)(BB) of the Act proscribes eligibility for an individual "whose marriage is not legitimate solely because of the bigamy of [the U.S. citizen spouse]". Neither the memo, nor the law, protects a self-petitioner from an invalid marriage resulting from her own bigamy.

The petitioner has not established the validity of her marriage to a U.S. citizen, and has thus failed to demonstrate the requisite qualifying relationship for immigrant classification under section 204(a)(1)(A)(iii) of the Act. Accordingly, we affirm our prior decision dismissing the petitioner's appeal.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The motion is granted. The June 27, 2014 decision of the Administrative Appeals Office is affirmed. The petition remains denied.