



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

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

MATTER OF L-X-N-

DATE: OCT. 6, 2017

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-360, PETITION FOR AMERASIAN, WIDOW(ER), OR SPECIAL IMMIGRANT

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 Amerasian, Widow(er), or Special Immigrant (VAWA petition), concluding that evidence in the record indicated the Petitioner had been convicted of marriage fraud and was thus not eligible for the desired immigrant classification.

On appeal, the Petitioner submits additional evidence and asserts that Director erred in finding that she had committed marriage fraud.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

A petitioner who is the spouse of a United States citizen may self-petition for immigrant classification if the petitioner demonstrates that he or she entered into the marriage with the United States citizen spouse in good faith and that during the marriage, the petitioner or his or her child was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii)(I) of the Act. In addition, a petitioner must show that he or she is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, resided with the abusive spouse, and is 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). A petitioner may submit any evidence for us to consider; however, we determine, in our sole discretion, the credibility of and the weight to give that evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. ANALYSIS

The Director denied the VAWA petition citing to Section 204(c) of the Act, which prohibits the approval of a visa petition filed on behalf of an alien who has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws. In finding the Petitioner ineligible, the Director referred specifically to the Petitioner's conviction for marriage fraud.¹ The Director did not address the remaining requirements and the Petitioner's claim related to her VAWA petition. On appeal, Petitioner repeats her assertion that she was not convicted of marriage fraud or of possessing a false marriage certificate, but for possession of false identity documents and that she is therefore not subject to 204(c) of the Act.

The record shows that the Petitioner submitted her VAWA petition claiming abuse from her U.S. citizen spouse, N-J-N-.² The Director issued a request for evidence (RFE) to establish the Petitioner's good moral character and for proof that a prior marriage to L-C- had been terminated. In response to the RFE, the Petitioner asserted that her VAWA petition did not indicate a marriage to L-C- and that she had never married or even known someone of that name. She explained that the first time she heard of L-C- was at her 2013 adjustment of status interview based on her marriage to N-J-N-. The Petitioner stated that she believed L-C- was connected to charges against her for possessing fraudulent identity documents after a preparer, E-R-, had instructed her in 1994 or 1995 to sign blank forms to normalize her immigration status. She asserted that E-R- may have invented the marriage to get her a work permit and green card. The Petitioner maintained that she did not know E-R- had submitted false information until she was arrested, and that she pled guilty in 1997 to possession of fraudulent documents.

In response to a November 2015 notice of intent to deny (NOID) her VAWA petition, the Petitioner again explained that she pled guilty to possession of false identity documents under 18 U.S.C. § 1028, and not to marriage fraud. She again contended that she was never married to L-C-, never met him, and was told to sign a blank Form I-589, Application for Asylum because people from Ecuador were being granted asylum and that she would get a work permit and a green card. The Petitioner maintained that during her federal court proceedings, there was only the charge of possession of false identity documents and that no one alleged a fraudulent marriage. The Petitioner also submitted documents showing that in 1997, E-R- was convicted under 18 U.S.C. § 1546 for presenting documents with false statements related for immigrant or nonimmigrant entry, stay, or employment in the United States.

Although the Petitioner is correct that she was not convicted of marriage fraud, a full review of the record contains substantial and probative evidence that the Petitioner attempted or conspired to enter into a marriage for the purpose of evading the immigration laws. The record shows that in 1996, a Form I-130, Petition for Alien Relative (alien relative petition) was denied because her 1994

¹ The Petitioner was convicted in 1997 in United States District Court for the [REDACTED] of New York of possession of false identity documents under 18 U.S.C. § 1028.

² We provide the initials of individual names throughout this decision to protect identities.

marriage certificate from [REDACTED] New York, was found to be fraudulent. The record contains a copy of a 1994 marriage certificate from [REDACTED] listing the Petitioner and L-C-. The record also contains the alien relative petition filed in September 1995, with L-C- petitioning as the U.S.-born spouse of the Petitioner, and a G-325A, Biographic Information sheet bearing the Petitioner's signature and listing L-C- as her spouse.

In response to the RFE, the Petitioner stated that she signed blank forms in 1994 or 1995 and in response to the NOID, the Petitioner maintained that she signed a blank asylum application. The Form I-589 in the record was filed in 1993 but does not reference a spouse, nor does a Form G-325A, Biographic Information, submitted with the asylum application. The signature on Form I-589, which the Petitioner admits she signed, and the signature on a Form G-325 submitted with the asylum application appear similar to the signature on the Form G-325 submitted with the relative petition filed by L-C-, of which the Petitioner claims she has no knowledge. These signatures also appear similar to the Petitioner's signature on her VAWA petition and on her statements in support of her VAWA petition. In addition, the Petitioner stated that when she signed the asylum application she was told that people from Ecuador could be granted asylum. However, the Form I-589 and G-325A both indicate that the Petitioner was born in Guatemala, and the record also contains a Guatemalan identity document (*cedula*) containing a signature that appears similar to the signature on other documents that the Petitioner admitted to signing.

In light of the inconsistencies in the record, the Petitioner's assertions that she was not aware of how she received permission to work because she signed blank forms and did not review them are insufficient to overcome the finding that she attempted to enter into a fraudulent marriage. Accordingly, the Petitioner is subject to section 204(c) of the Act, which bars approval of her VAWA petition.³

ORDER: The appeal is dismissed.

Cite as *Matter of L-X-N-*, ID# 569322 (AAO Oct. 6, 2017)

³ Because of finding the Petitioner ineligible under section 204(c) of the Act we do not reach discussion of the merits of her VAWA petition.