

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals**For the Seventh Circuit****Chicago, Illinois 60604**

Argued February 12, 2026

Decided July 6, 2026

*Before*FRANK H. EASTERBROOK, *Circuit Judge*DORIS L. PRYOR, *Circuit Judge*NANCY L. MALDONADO, *Circuit Judge*

No. 25-2028

THANH THAO LE NGUYEN,
*Petitioner,*Petition for Review of an Order of the
Board of Immigration Appeals.*v.*

A061-025-106

TODD W. BLANCHE, Acting Attorney
General of the United States,
*Respondent.***ORDER**

After Thanh Thao Le Nguyen’s conditional legal status was terminated, she sought a discretionary waiver to allow her to seek permanent legal status without the joint appearance of her ex-husband. United States Citizenship and Immigration Services (“USCIS”) denied her application, finding that she failed to demonstrate she had entered the marriage in good faith, and the Department of Homeland Security (“DHS”) commenced removal proceedings. An immigration judge agreed with USCIS’s determination and sustained DHS’s charge of removability, and the Board of Immigration Appeals summarily affirmed that decision. Nguyen now petitions for our review. But we lack jurisdiction over part of her petition, and the challenges we can

review are without merit. We therefore dismiss in part and deny in part Nguyen's petition.

I

A. Factual Background

Nguyen is a native and citizen of Vietnam. In the summer of 2005, she met her now ex-husband, Hon Quang Chau ("Hon"), at a party. Hon was a Vietnamese citizen and a lawful permanent resident of the United States. After Hon returned to the United States, the two kept in contact and then married in Vietnam in February 2006. Nguyen testified before the immigration judge that 200 people attended the ceremony, but her submitted photos depict a much smaller event.

After the ceremony, Hon returned to the United States but traveled back to Vietnam regularly to see Nguyen. The couple waited until Hon obtained his United States citizenship before registering their marriage with the Vietnamese authorities in December 2008. In March 2009, Hon petitioned to classify Nguyen as his spouse for immigration purposes, and USCIS approved that petition.

Nguyen was admitted to the United States on January 27, 2010, as a conditional lawful permanent resident. Upon her arrival, Nguyen began living with Hon and members of his family at his brother's home in Skokie, Illinois. When asked what she and Hon did together for those first two months after her arrival, Nguyen testified that they had a "sexual relationship like any family" but did not do anything else together. Nguyen also testified that she never took a trip with Hon after arriving in the United States and that they "only went to his friends like for parties on the weekends," specifically recalling a time they went to her friend's child's birthday party.

On March 31, 2010 (two months after her admission to the United States), Nguyen went back to Vietnam for almost two months. She says she went on that trip because she was "sad" — Hon had been drinking and had no work, and the two were arguing. When she came back to the United States on May 12, Nguyen went to California to stay with a friend because she was still mad at Hon.

In June 2010, while in California, Nguyen discovered she was pregnant. Nguyen's testimony and medical records contain varying information about the timing of the pregnancy, indicating conception anytime from late February to April 2010. When she was "about two or three months" pregnant (and still in California), Nguyen

slipped and fell, and she lost the pregnancy. A couple months later, Nguyen returned to Skokie to be with Hon, who was “not happy” about the miscarriage, blaming Nguyen.

According to USCIS’s travel records, Nguyen took two more trips to Vietnam: one from November 2010 (shortly after she returned to Illinois from California) through March 2011, and one from October 2011 through November 2011. Nguyen says that she and Hon traveled separately to Vietnam in November 2011—Hon was attending his father’s funeral, and Nguyen came after. But the travel records indicate that it’s more likely that this trip (if Hon went at all) happened in November 2010.

At some point, Hon started traveling to Texas, where he was seeking work, and eventually moved there permanently. The timing is, again, unclear from the record: Nguyen testified that Hon moved to Texas in October 2012, but she also said he was living there in 2011, and Hon had a Texas driver’s license as of January 2011. Nguyen had also previously told USCIS that Hon relocated in early 2011. Hon asked Nguyen to move with him, but she declined—she wanted to stay in Illinois because she had stable work at a nail salon.

Eventually, the two separated and decreased contact because they were “mad at each other.” Again, it is not clear when. Nguyen’s testimony indicated that this occurred in either September 2011 or March 2012. Nguyen testified that Hon was drinking and had girlfriends (though she had not previously mentioned those issues to USCIS).

In December 2012, an Illinois court entered a judgment of dissolution of marriage at Nguyen’s request. And in September 2013, Nguyen had a child with another man.

B. Immigration Proceedings

When an immigrant, like Nguyen, obtains lawful permanent resident status through marriage to an American citizen, that status is conditional and lasts for only two years. *See* 8 U.S.C. § 1186a(a)(1), (c)(2)(A). After two years, the couple must file a joint petition to remove the conditions and appear for an interview so officials can assess whether the marriage was bona fide. *See id.* § 1186a(c)(1). Failure to do so results in termination of the immigrant’s status. *See id.* § 1186a(c)(2).

If the citizen spouse is unwilling to jointly petition or interview (when, for example, the couple has already divorced), the immigrant can apply for a waiver of the

joint-petition requirement. *See id.* § 1186a(c)(4). Under this waiver provision, the Secretary of Homeland Security, “in [his] discretion, may remove” the conditions if the immigrant demonstrates that she entered the marriage “in good faith.” *Id.*

§ 1186a(c)(4)(B). The law gives the Secretary “sole discretion” to determine “what evidence is credible and the weight to be given that evidence.” *Id.* The immigrant bears the burden of proving good faith by a preponderance of the evidence. *See Omorhienrhien v. Barr*, 952 F.3d 906, 909–10 (7th Cir. 2020). Relevant evidence to be considered may include “the degree to which the financial assets and liabilities of the parties were combined,” the “length of time during which the parties cohabited after the marriage,” any children born to the couple, and any other “pertinent” evidence. 8 C.F.R. § 216.5(e)(2).

In December 2011, Nguyen and Hon had filed a joint petition to remove the conditions on her residence. The next month, however, Hon submitted a letter withdrawing his support for the petition, claiming that Nguyen had cheated on him and that she “used me to immigrate to the US not because of loving me.” Nguyen and Hon were scheduled to appear for their interview in August 2012. Nguyen appeared, but Hon (who was in Texas) did not, so in September 2012, the petition was denied, and Nguyen’s conditional status was terminated. DHS then initiated removal proceedings against Nguyen.

In January 2013, following her divorce from Hon, Nguyen petitioned to waive the joint-filing requirement. Her removal proceedings were paused while the petition was assessed. After interviewing Nguyen, USCIS denied her petition, finding the evidence insufficient to show that she had entered her marriage in good faith. Nguyen’s removal proceedings then resumed.

Nguyen, who was represented by counsel, appeared before the immigration judge and testified about her marriage. Nguyen submitted a variety of documents into evidence, including her marriage certificate, divorce decree, photos of her and Hon in Vietnam, bank statements, medical records, and a car insurance card. She claimed that Hon’s family “hid all the paperwork from me,” so she didn’t have a “lot of proof about the marriage.” She also submitted a letter written by her friend, Lan Luong, who recounted that Nguyen and Hon had come to her daughter’s birthday party together and claimed that the two separated because Hon had cheated on Nguyen. Nguyen wanted Luong to testify, but the immigration judge assumed Luong would testify consistent with her letter and therefore determined her testimony to be unnecessary.

The government's evidence consisted of Hon's letter, Hon's Texas driver's license, and documents Nguyen had previously submitted to USCIS.

The immigration judge sustained the charge of removability. She found that Nguyen was not a credible witness, citing "numerous inconsistencies, discrepancies, and omissions in the record." And she found that Nguyen had failed to demonstrate that her marriage was bona fide, noting that "the record contains scarce testimony or evidence regarding a shared life or any intent to share a life" and that there was scarce evidence of "shared experiences as a married couple."

Nguyen timely appealed to the Board. In February 2025, Immigration and Customs Enforcement detained Nguyen; she remains detained in Kentucky. In May 2025, the Board summarily affirmed the immigration judge's decision.

Nguyen now petitions for our review, arguing that the immigration judge imposed too high a burden of proof in weighing the evidence and denied her a fair hearing by refusing to hear Luong's testimony.

II

Nguyen first argues that the immigration judge imposed an elevated burden, requiring more from Nguyen than necessary. This is evidenced, she says, by the judge's erroneous findings of "inconsistencies" and her "improper[] focus[] on irrelevant facts."

To the extent Nguyen is asking us to reweigh the evidence or second guess the immigration judge's findings about her credibility, we have no jurisdiction to review the discretionary denial of the waiver Nguyen sought. *See* 8 U.S.C. § 1252(a)(2)(B)(ii) ("[N]o court shall have jurisdiction to review" decisions "specified under this subchapter to be in the discretion of . . . the Secretary of Homeland Security"); *id.* § 1186a(c)(4) (the decision whether to grant a hardship waiver rests in the discretion of the Secretary of Homeland Security). We retain "narrow jurisdiction" to review constitutional and legal challenges, but we can go no further. *See Omorhienrhien*, 952 F.3d at 909 (citing 8 U.S.C. § 1252(a)(2)(D)). Nguyen's "disagreement with the weight assigned by the immigration [judge] to particular evidence does not present a question of law," so we cannot entertain any such challenge. *Adebowale v. Mukasey*, 546 F.3d 893, 896 (7th Cir. 2008) (citing *Huang v. Mukasey*, 534 F.3d 618, 621 (2008)). And a challenge to the immigration judge's credibility determination is an unreviewable finding of fact. *Wilkinson v. Garland*, 601 U.S. 209, 225 (2024).

The most we can review with respect to this first argument is “whether the immigration judge applied the correct legal standard.” *Omorhienrhien*, 952 F.3d at 909. She did. The judge correctly considered whether Nguyen had shown—by a preponderance of the evidence—that her marriage was bona fide. The judge, three times, stated the correct legal standard. She then considered all the evidence before her and found that Nguyen failed to meet that burden, pointing to the many “inconsistencies, discrepancies, and omissions in the record” and opining that “the record overwhelmingly indicates that the marriage was not entered into in good faith.”

Nguyen cites our prior ruling in *Lara v. Lynch*, 789 F.3d 800 (7th Cir. 2015), where we found that the Board had improperly elevated the burden of proof. But *Lara* is inapposite. In *Lara*, the Board “elected to credit all of [petitioner’s] testimony” that he entered the marriage in good faith, and “the government offered no evidence to the contrary.” 789 F.3d at 801, 805. As a result, the “only conclusion [the Board] could then logically reach was that [the] marriage was bona fide.” *Id.* at 805. But here, the immigration judge made an explicit adverse credibility finding. And the government came forward with evidence challenging the legitimacy of the marriage: It presented Hon’s letter, his driver’s license, travel records, and information previously provided by Nguyen to USCIS, all of which contradicted or called into question Nguyen’s depiction of events. Nguyen, for her part, did not provide evidence of shared travel or shared experiences aside from having sex and attending one birthday party and “parties on the weekends” with Hon. The immigration judge was entitled to weigh this conflicting evidence and determine that Nguyen had fallen short of the preponderance standard. See *Omorhienrhien*, 952 F.3d at 910 (distinguishing *Lara* because “here the government presented evidence that conflicted with and discredited [petitioner’s] testimony”).

Nguyen also seems to argue that the immigration judge legally erred by considering events occurring after the inception of the marriage, but we can dispose of that argument quickly. The regulations instruct that the immigration judge *should* consider post-marriage finances, cohabitation, births, and any other “pertinent” evidence to determine the extent of “commitment . . . to the marital relationship.” 8 C.F.R. § 216.5(e)(2). Nothing limits the inquiry to evidence preceding the marriage.

Next, Nguyen argues that the immigration judge violated her constitutional and statutory due process rights by not permitting her friend, Luong, to testify. We can consider this argument, but it fails. First, the constitutional challenge is a non-starter. We have repeatedly held that discretionary waivers “are not liberty interests and do not

implicate the Constitution.” *See, e.g., Boadi v. Holder*, 706 F.3d 854, 858 n.3 (7th Cir. 2013) (collecting cases).

As to the statutory challenge, immigrants in removal proceedings “shall have a reasonable opportunity” to present evidence on their own behalf. *See* 8 U.S.C. § 1229a(b)(4)(B). To succeed on this argument, Nguyen needs to “show not only that her ‘reasonable opportunity’ was denied, but also that she was prejudiced.” *Apouviapseakoda v. Gonzales*, 475 F.3d 881, 885 (7th Cir. 2007) (citing *Rehman v. Gonzales*, 441 F.3d 506, 509 (2006)). At the end of the day, we are assessing “whether, given the totality of the circumstances, the petitioner had a full and fair opportunity to put on her case.” *Id.* at 886 (citation omitted).

We typically “f[i]nd fault with an [immigration judge’s] decision to deny corroborating witness testimony” when the judge “has ‘made up his mind about the case and was subsequently unwilling to listen to any testimony,’ despite the diligent insistence of the alien’s counsel that the testimony speaks directly to the questions the [immigration judge] is supposed to evaluate in making the decision.” *Id.* at 888–89 (quoting *Kerciku v. INS*, 314 F.3d 913, 918 (7th Cir. 2003)). Where counsel makes “no objection” to the refusal to hear the testimony, and “the petitioner received plenty of time and opportunity to argue her case generally,” we tend to find that “she received a reasonable opportunity to be heard.” *Delgado v. Holder*, 674 F.3d 759, 768–69 (7th Cir. 2012) (citing *Apouviapseakoda*, 475 F.3d at 889) (decision to permit only one of petitioner’s daughters to testify was explained “by a desire to . . . cut out extraneous, cumulative, or unnecessary evidence”).

Here, we see no error, let alone an error that prejudiced Nguyen. The immigration judge decided not to hear Luong’s testimony because she believed it would be consistent with Luong’s letter and Nguyen’s testimony. This evinces a desire to eliminate cumulative evidence in a lengthy hearing rather than a flat-out unwillingness to hear testimony. And Nguyen’s counsel did not object, so there was no “diligent insistence” that the testimony was crucial. *See Apouviapseakoda*, 475 F.3d at 889.

Even if the testimony was erroneously excluded, Nguyen cannot show prejudice. It is not enough to suggest generally that different evidence would have been presented. *See Boadi*, 706 F.3d at 859. There must be some showing that the outcome would have likely been different had the testimony been included. *See id.*; *see also Delgado*, 674 F.3d at 769 (no prejudice where petitioner had “not suggested any

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testimony that [witness] would have provided that was not already revealed through the [other] testimony”).

Nguyen says that Luong could “corroborate the cohabitation with [Hon] and their participation in social events.” But there was no debate about *whether* Nguyen and Hon cohabited when she was in Skokie during the marriage. The problem was that Nguyen and Hon were hardly ever in Skokie at the same time during the marriage. It’s not clear what material testimony Luong could have provided about this issue. As for social events, Luong’s letter already mentioned the birthday party, and Nguyen testified about the birthday party and other “parties on the weekends.” It’s unclear what else Luong could have or would have shared about this. It’s also unlikely that corroboration of Nguyen’s cohabitation or participation in social events with Hon would have affected the outcome, given the immigration judge’s other concerns about the record evidence.

III

For these reasons, to the extent Nguyen asks us to reexamine the immigration judge’s credibility determination or the weight given to any particular piece of evidence, we DISMISS for lack of jurisdiction. And we DENY the petition in all other respects.