



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

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

In Re: 27640929

Date: AUG. 17, 2023

Appeal of Vermont Service Center Decision

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

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 petition, concluding that the record did not establish that the Petitioner had entered into a qualifying relationship with a United States citizen. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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). 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

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 termination of all prior marriages for the petitioner and the spouse. 8 C.F.R. § 204.2(c)(2)(ii).

The Petitioner, a native and citizen of Nigeria, married E-E-¹ in October 2018, and filed her Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition), in February 2020 based upon this marriage. With her VAWA petition, she submitted a copy of a Decree Absolute for her previous marriage in Nigeria. After review of the initial evidence, the Director issued a request for evidence (RFE) and informed the Petitioner that the documentation of her divorce in Nigeria was incomplete, as she did not submit a Decree Nisi, and that the Decree Absolute on its own was insufficient to establish the dissolution of her prior marriage. The Director denied the VAWA petition, concluding that the divorce documents submitted did "not conform to the validity standards contained

¹ We use initials to protect the identity of individuals.

in the Department of State Foreign Affairs manual,” and that the documentation submitted did not establish that she was free to marry E-E-.

On appeal, the Petitioner submits a brief, copies of the Decree Nisi and Decree Absolute, a printout from the [] State Judiciary, a personal statement, verification letters from the attorneys who represented her in her divorce, and a verification letter from the [] State Judiciary. In our de novo review of the record before us, including the Director’s decision, we determine that the Director’s decision did not provide an adequate explanation to the Petitioner regarding the alleged deficiencies, or explain how the documents she submitted did “not conform to the validity standards” outlined by the Department of State.

Remanding a matter is appropriate when the director does not fully explain the reasons for the denial so that the affected party has a fair opportunity to contest the decision and the AAO has an opportunity to conduct a meaningful appellate review. 8 C.F.R. § 103.3(a)(1)(i),(iii) (providing that the director’s decision must explain the specific reasons for denial and notify the affected party of appeal rights); *cf. Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that the reasons for denying a motion must be clear to allow the affected party a meaningful opportunity to challenge the determination on appeal). As the Director’s decision only indicated that the Petitioner’s divorce documents did “not conform to the validity standards” outlined by the Department of State without additional explanation of which validity standards her documents failed to conform to, we remand the matter to the Director for the entry of a new decision consistent with the foregoing analysis. Further, as the Petitioner has submitted new evidence with her appeal, we remand the matter for the Director to consider this new evidence in the first instance.

ORDER: The Director’s decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.