



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 29695033

Date: DECEMBER 19, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse or Child of U.S. Citizen

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 Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), concluding that the Petitioner did not establish a qualifying marital relationship and her corresponding eligibility for immigrant classification under VAWA. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner contends that she has established eligibility for the benefit sought. 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 dismiss the appeal.

I. LAW

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 they were battered or subjected to extreme cruelty perpetrated by the 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 the termination of all prior marriages for the petitioner and the abuser. 8 C.F.R. § 204.2(b)(2), (c)(2)(ii).

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 (AAO 2010). Although we must consider any credible evidence relevant to the VAWA petition, we determine, in our sole discretion, what evidence is credible and the weight to give to such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. ANALYSIS

The record reflects that in March 2020, the Petitioner, a citizen of Nigeria, filed a VAWA petition. In February 2023, through a notice of intent to deny (NOID), the Director informed the Petitioner that she submitted inconsistent evidence with respect to her claim that she legally terminated her first marriage prior to the inception of the instant marriage. Specifically, the Director explained that while

the Petitioner submitted a Decree Nisi of Dissolution (Decree Nisi) and Certificate of Decree Absolute (Decree Absolute) as evidence of the termination of her prior marriage, the decrees were inconsistent with exemplars provided to United States Citizenship and Immigration Services (USCIS) by the U.S. Consulate General in Lagos, Nigeria as well as with guidelines in the Nigerian Matrimonial Causes Act.¹

In response to the NOID, the Petitioner submitted a letter, purportedly from the Acting Chief Registrar of the [redacted] confirming the authenticity of the decrees and a copy of a final judgment purportedly issued by the High Court of [redacted] Division. USCIS contacted the Acting Chief Registrar of the [redacted] to validate the authenticity of the letter and he confirmed that this letter was not signed by him. The Director denied the VAWA petition, highlighting that the authenticity of the divorce decrees was questionable and evidence submitted by the Petitioner to establish the authenticity of the decrees was determined to be fraudulent. The Director concluded that evidence in the record did not establish that the Petitioner's first marriage was legally terminated, and therefore, the Petitioner did not establish a qualifying relationship with a U.S. citizen, or that she is eligible for immigrant classification based on that qualifying relationship.

Upon de novo review, we adopt and affirm the Director's decision with the comments below. See *Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); see also *Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case). Here, the Petitioner has not submitted any evidence on appeal to resolve the ambiguity in the record regarding the authenticity of the evidence submitted to establish the legal termination of her first marriage. Instead, she submits a [redacted] 2023 dissolution of marriage decree issued by the [redacted] County Court in Indiana as evidence of the termination of first marriage. However, this evidence does not establish that her first marriage was legally terminated prior to the instant marriage, as required under 8 C.F.R. § 204.2(c)(2)(ii). The Petitioner, therefore, has not established, by a preponderance of the evidence, a qualifying marital relationship with a U.S. citizen spouse. Because the Petitioner has not demonstrated the requisite qualifying marital relationship, she also has not established that she is eligible for immediate relative classification based on such relationship.

ORDER: The appeal is dismissed.

¹ The Nigerian Matrimonial Causes Act of 1970 provides a strict divorce procedure for marriage contracted under the Marriage Act. "After filing the necessary papers in Court, there is a trial. At the end of the trial, the Court may grant or refuse the Divorce. Where the divorce is granted, the order is temporary and is called a Decree Nisi. There is a three-month period allowed in the event of reconciliation between the couple. At the end of the three months, if the parties have not reconciled, then the divorce decree will automatically become absolute, and a Decree Absolute is issued." <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Nigeria.html> (last visited October 17, 2023).