



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

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

In Re: 29432036

Date: DEC. 29, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for 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 (the Director) denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition). The matter is now before us on appeal. 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 dismiss the appeal.

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

In May 2020, the Petitioner, a citizen of Nigeria, filed a VAWA petition wherein he indicated that he had been married two times. In support, he submitted a Decree Nisi of Dissolution of Marriage and a Certificate of Degree Absolute. Said documents contained a "WD" suit number and indicated that on [redacted] 2015, the marriage was dissolved between the Petitioner and S-O-,¹ and became absolute on [redacted] 2015.

In 2022, through a request for evidence (RFE), the Director informed the Petitioner that "based on information from the U.S. Consulate, Lagos, Nigeria" the Decree Nisi of Dissolution and the Certificate of Degree Absolute submitted by the Petitioner with the VAWA petition "are counterfeit." Thus, the Director determined that the Petitioner has not established that he was free to marry Q-P-

¹ Initials are used throughout this decision to protect the identities of the individuals.

his U.S. citizen spouse. The Director requested “other valid evidence” to establish that the marriage between the Petitioner and S-O- was legally terminated.²

In response to the RFE, counsel for the Petitioner stated that the Petitioner “did not intentionally nor unintentionally submit counterfeit documents.” Counsel’s unsubstantiated assertions do not constitute evidence. *See, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) (“statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight”). The Petitioner also submitted a Decree Nisi of Dissolution and a Certificate of Decree Absolute, both indicating they were issued by the [redacted] and “re-signed” by the Assistant Chief Registrar, Litigation; said documents also indicated that on [redacted] 2015, the marriage was dissolved between the Petitioner and S-O-, and became absolute on [redacted] 2015. In addition, the Petitioner submitted a September 21, 2022, letter purportedly from the Assistant Chief Registrar, [redacted]. The letter stated that a divorce between the Petitioner and S-O- was made absolute in [redacted] 2015 but the Decree Nisi of Dissolution and Certificate of Decree Absolute submitted by the Petitioner in support of the VAWA petition “are inconsistent and not a true reflection of the Forms 35 & 41 issued by this Honourable court.” The letter further detailed that the previously submitted decrees were withdrawn and “the correct Decree Nisi of Dissolution of Marriage and Certificate of Decree Absolute” were being submitted. The letter also explained that the “online records are still being updated and may not be totally relied upon for verification purposes as the court is yet to fully computerize all records due to security breach” as well as the “administrative challenges exacerbated by the COVID 19 pandemic.”

In the decision to deny the Petitioner’s VAWA petition, the Director determined that the Petitioner had not established that his marriage to S-O- was legally terminated prior to his marriage to a U.S. citizen because a search of the [redacted] public online search of litigation cases regarding the legal termination of the Petitioner’s marriage to S-O- yielded no results. Thus, the Director found, the documentation submitted in support of the legal termination between the Petitioner and S-O- is “not authentic.” Because the Petitioner did not establish that his first marriage was legally terminated, the Director concluded that he did not establish a qualifying relationship with a U.S. citizen, or that he was eligible for immigrant classification based on that qualifying relationship.³

On appeal, counsel for the Petitioner asserts that the Petitioner’s first marriage was legally terminated and he is thus eligible for the benefit sought. He contends that U.S. Citizenship and Immigration Services (USCIS) has provided no authority for its proposition that the records of every single divorce case in [redacted] must be available online in order for the divorce to be legitimated.

² The Director also requested additional evidence to establish the Petitioner’s good faith marriage and joint residence to Q-P-, and his subjection to battery or extreme cruelty by Q-P-.

³ The Director also determined that the Petitioner had not established good faith marriage and joint residence to Q-P-, or that he been subjected to battery or extreme cruelty by Q-P-. Since the identified basis for denial is dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve the Petitioner’s appellate arguments regarding his joint residence and good faith marriage to Q-P-, and his subjection to battery or extreme cruelty by Q-P-. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make “purely advisory findings” on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an individual is otherwise ineligible).

On appeal, the Petitioner has not established a qualifying marital relationship as he has not provided sufficient proof of the legal termination of his marriage to S-O- as required. The Decree Nisi of Dissolution of Marriage and Certificate of Decree Absolute submitted with the VAWA petition were different than the Decree Nisi of Dissolution of Marriage and Certificate of Decree Absolute submitted in response to the RFE. We also note that the Certificate of Decree Absolute submitted in response to the RFE stated that the divorce between the Petitioner and D-H- became absolute on [REDACTED] 2015, but was “Dated This 20st Day of September 2022,” which casts doubt on its authenticity. The September 2022 letter written purportedly by the assistant chief registrar noted that the Decree Nisi of Dissolution and Certificate of Decree Absolute initially submitted by the Petitioner “are inconsistent and not a true reflection of the Forms 35 & 41 issued by this Honourable court” and are withdrawn. However, the letter does not address why the [REDACTED] issued documents that were not “a true reflection” of forms issued by the court. Nor does the Petitioner address how he obtained the divorce documents he submitted with his VAWA petition, or the finding that the divorce documentation initially submitted by the Petitioner was “inconsistent” and “not a true reflection” of forms issued by the [REDACTED]

On appeal, the Petitioner has not overcome the Director's finding that the authenticity of the submitted court documentation has not been established. Therefore, without sufficient evidence of the legal termination of his first marriage, the Petitioner has not met his burden of establishing a qualifying marital relationship with a U.S. citizen for purposes of immigration classification under section 204(a)(1)(A)(iii) of the Act. Because the Petitioner did not demonstrate a qualifying marital relationship, he also necessarily cannot establish that he is eligible for immediate relative classification under VAWA based on such a relationship. The petition will therefore remain denied.

ORDER: The appeal is dismissed.