



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

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

In Re: 23925184

Date: JAN. 24, 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. 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 Abused Spouse or Child of U.S. Citizen (VAWA petition), concluding that the Petitioner did not establish a qualifying marital relationship with a U.S. citizen and her corresponding eligibility for immigrant classification based on that relationship. Specifically, the Director found that the Petitioner did not meet her burden of proof in establishing the termination of her previous marriage. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner submits a written statement and a letter from the assistant chief registrar of the High Court of [REDACTED] Judiciary (High Court), Nigeria attesting to the reliability of her divorce documents. 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.

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 the marriage with the U.S. citizen spouse in good faith and the petitioner was battered or subjected to extreme cruelty perpetrated by the qualifying relative. Section 204(a)(1)(A)(iii) of the Act; 8 C.F.R. § 204.2(c)(1). A petitioner must also show that they are eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, 8 U.S.C. § 1151(b)(2)(A)(i). Among other things, a 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).

U.S. Citizenship and Immigration Services (USCIS) shall consider any credible evidence relevant to the VAWA petition; however, the definition of what evidence is credible and the weight that USCIS gives such evidence lies within USCIS' sole discretion. Section 204(a)(1)(J) of the Act;

8 C.F.R. § 204.2(c)(2)(i). 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).

II. ANALYSIS

The Petitioner is a citizen and national of Nigeria who last entered the United States in March 2018 as a non-immigrant visitor. The Petitioner married her third spouse, G-H-¹, a U.S. Citizen, in [] 2018. The Petitioner filed the current VAWA petition in January 2020 seeking classification as the abused spouse of a U.S. citizen. The Director denied the petition, concluding that the Petitioner had not established the legal termination of her marriage to her second spouse, O-E-, and as a result, the Petitioner did not establish a qualifying spousal relationship to a U.S. citizen, based on her subsequent marriage to G-H-, and corresponding eligibility for immediate relative classification under section 201(b)(2)(A)(i) of the Act as the spouse of a U.S. citizen, as required under VAWA.

As evidence of the termination of the first of her two prior marriages in Nigeria, the Petitioner submitted a death certificate for her first spouse. As evidence of the termination of her second marriage to O-E-, the Petitioner submitted a Decree Nisi and Divorce Absolute issued by the High Court in 2017. The Divorce Absolute indicates that the Petitioner's marriage to O-E- was dissolved in [] 2017. The Director found that the divorce documents did not conform to the usual standards of court documents from [] and that a search of court records on the [] Judiciary website did not locate any corresponding record for the 2017 divorce. The Director issued a request for evidence (RFE) notifying the Petitioner of these discrepancies in the divorce documents. The Petitioner responded to the RFE by providing a letter of certification from the assistant chief registrar for the High Court, the Petitioner's personal statement regarding the loss of documents in October 2020, an amended Divorce Absolute and Decree Nisi issued in [] 2022, and a document indicating her customary marriage to O-E- was dissolved in 2017 by return of the bride price to her former spouse in accordance with traditional customs.

The Director found the multiple divorce documents to be contradictory as they indicated that the Petitioner and O-E- had a customary marriage but the divorce documents the Petitioner initially submitted to establish the termination of her marriage to O-E- were from the High Court in Nigeria, which cannot dissolve a customary marriage. The Director further concluded the amended High Court divorce documents and the explanation provided by the assistant chief registrar for the issuance of the amended documents did not explain or overcome the discrepancies identified in the original documents. Accordingly, the Director determined that the Petitioner had not established the legal termination of her marriage to O-E- and as a result, could not establish that her subsequent marriage to G-H- was valid for VAWA purposes.

On appeal, the Petitioner provides an updated statement setting forth a timeline of her and O-E-'s marriage and divorce. She also submits a second letter from assistant chief registrar of the High Court in [] certifying the accuracy of the [] 2022 amended divorce documents. The Petitioner's statement is material to the decision of the Director because it specifically addresses the discrepancies raised in the Director's decision and explains that she obtained both a traditional and civil divorce. The second letter from the assistant chief registrar is material because it provides an explanation for

¹ We use initials to protect the privacy of individuals.

the discrepancy in the case number of the divorce documents and [REDACTED] Judiciary website noted by the Director.

The record reflects that the Petitioner has provided new, material evidence that the Director has not had the opportunity to review. As such, we will remand the matter to the Director to consider this evidence in the first instance and determine whether the Petitioner has established the requisite qualifying spousal relationship to a U.S. citizen and otherwise established her eligibility for immigrant classification under VAWA.

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