



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 24400946

Date: JAN. 30, 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 corresponding eligibility for immigrant classification under VAWA. The matter is before us on appeal. On appeal, the Petitioner contends that he has established eligibility for the benefit sought. The Administrative Appeals Office (AAO) reviews 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 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).

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. RELEVANT FACTS AND PROCEDURAL HISTORY

The record reflects that in February 2019, the Petitioner, a citizen of Nigeria, filed a VAWA petition wherein he indicated that he had been married two times. In July 2019, through a request for evidence (RFE), the Director informed the Petitioner that the record did not contain evidence establishing that his first marriage was legally terminated prior to the inception of the instant marriage. In response to the RFE, the Petitioner submitted a Medical Certificate of Cause of Death (medical certificate), issued

by an unidentified authority, indicating that the Petitioner's former spouse died during childbirth on [REDACTED] 2008, in Lagos State.

After review of the record, the Director denied the petition, determining that the medical certificate was not sufficient to establish that the Petitioner's first marriage was legally terminated. Specifically, the Director noted that the U.S. Department of State's Reciprocity Schedule for Nigeria (reciprocity schedule)¹ provides that the only acceptable document for registering deaths of individuals after 1992 within Nigeria is a Certificate of Death (death certificate) issued by the National Population Commission (NPC). Because the Petitioner did not submit the required documentation, the Director concluded that he did not establish a qualifying relationship with a U.S. citizen, or that he is eligible for immigrant classification based on that qualifying relationship.

In September 2021, the Petitioner filed a motion to reopen and reconsider the denial of his VAWA application. With the motion he submitted a death certificate, dated July 27, 2021, and purportedly issued by the NPC. The death certificate indicated that the death was registered in Enugu State. He also submitted a Certificate of Birth, recording his son's birth on [REDACTED] 2008, in Lagos State. The Director dismissed the motion, determining that the authenticity of the death certificate was questionable because the reciprocity schedule provides that upon the death of an individual, information of such a death is given to the Registrar for the area where the death occurred, therefore, a valid death certificate for the Petitioner's spouse would have been registered in Lagos State, not Enugu State as indicated on the death certificate. Further, the Director noted that the death certificate was not registered until 13 years after the Petitioner's spouse's death, and additionally, the death certificate was dated one day after the issuance of the denial letter,² which cast further doubt regarding the legitimacy of the submitted documentation.

In April 2022, the Petitioner filed a second motion to reopen and reconsider. With his second motion, he submitted, inter alia – (1) a document entitled "Invalidation of Death Certificate," purportedly issued by the NPC, indicating that the July 2021 death certificate was erroneously issued by an NPC branch office in Enugu State; (2) a second death certificate, dated November 5, 2021, purportedly issued by the NPC in [REDACTED] Lagos State; (3) a document entitled "Verification of Document" issued by the "Office of the Hon. Federal Commissioner" explaining that the delay in registration of the death certificate was due to the "predominant ignorance of, and apathy towards death registration in Nigeria," and noting that "many persons never demand for the death registration of a relative except there is [sic] any claim of properties, gratuities etc. to be made"; and (5) documentation regarding the death registration process in Nigeria. The Director dismissed the motion, determining that the submitted documentation did not resolve the inconsistencies contained in the record. The Petitioner filed an appeal of that decision with our office.

III. ANALYSIS

After a careful review of the entire record, we find that the Petitioner has not established a qualifying marital relationship as he has not provided sufficient proof of the legal termination of his first marriage, as required.

¹ <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Nigeria.html>

² The denial letter is dated July 26, 2021.

On appeal, the Petitioner contends the following: (1) he submitted a death certificate issued by the NPC, as required; (2) the reciprocity schedule does not state that a death certificate issued by the NPC is the only acceptable document for deaths occurring after 1992, and a medical certificate may be provided as an alternate document for deaths occurring in hospitals; (3) the Director erred by refusing to consider the medical certificate as additional credible evidence once he submitted a death certificate issued by the NPC; (4) a hospital-issued death certificate is considered a legal document in Nigeria; and (5) USCIS accepted a medical certificate as proof of the legal termination of his prior marriage in previously filed petitions and applications, therefore USCIS should be estopped from determining otherwise.³

Contrary to the Petitioner's contention regarding the acceptability of other documentation, the reciprocity schedule provides that a "Medical Certificate of Death is acceptable for deaths of any person which occurred before the commencement of Births and Deaths, etc. (Compulsory Registration) Act, No. 69 of 1992," and a "Sworn declaration or Affidavit is also acceptable in lieu of a Medical Certificate of Death for cases where the death occurred before the commencement of the Act." As the Petitioner's spouse's death occurred after 1992, the death certificate issued by the NPC is the only documentation accepted as evidence in these proceedings, regardless of whether a hospital-issued death certificate is considered a legal document for other matters within Nigeria.

Further, as referenced by the Director, the reciprocity schedule provides that "when the death of any person occurs, information of such a death is given to the Registrar for the area where such a death occurred." Here, the Petitioner submitted two death certificates – the first, registered in Enugu State and issued one day after the denial of the VAWA petition – and the second registered in Lagos State. The Petitioner contends that the first death certificate was issued in a state other than where his former spouse died because his attorneys advised him that a death certificate could be obtained from any state within Nigeria, and therefore, they "applied and procured the death certificate in Enugu and the Ministry of Foreign Affairs and the U.S. Embassy authentication and attestation in [redacted]." The Petitioner's attempt to resolve the inconsistent information reflected in the two death certificates does not explain how he was able to procure the first death certificate – ostensibly within 24 hours from the issuance of the VAWA application denial letter – which does not comport with the reciprocity schedule. The unresolved inconsistencies also diminish the evidentiary weight we accord to the documentation submitted to support the authenticity of the second death certificate. Although the Petitioner is correct that we must consider any credible evidence relevant to a VAWA petition, as noted above, we determine, in our sole discretion, what evidence is credible and the weight to give to such evidence. Under this evidentiary standard, the second death certificate and other documentation submitted by the Petitioner are not sufficient to demonstrate 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.

³ We note here that the instant VAWA application is a separate proceeding under the Act and any prior determinations made in connection with the Applicant's marital status are not binding in these proceedings.