



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

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

In Re: 27008429

Date: JUL. 07, 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 a qualifying relationship with a United States citizen spouse. 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 filed the instant VAWA petition in July 2020 based upon her marriage to M-C-¹, a U.S. citizen. In May 2022, the Director issued a request for evidence (RFE) informing the Petitioner that USCIS records indicated that her Divorce Decree Nisi and Decree Absolute documents from Nigeria, issued in [REDACTED] 2016, were not legitimate and requesting evidence that her previous marriage had been legally terminated. In response to the RFE, the Petitioner provided a divorce decree, issued in [REDACTED] 2020 in Texas. In the Director's decision, they noted that the Petitioner married M-C- in [REDACTED] 2017, and the new divorce decree indicated that her prior marriage was not terminated until

¹ We use initials to protect the identity of individuals.

[redacted] 2020. As a result, the Director denied the VAWA petition on the ground that the Petitioner did not establish that she was in a qualifying relationship with M-C-.

On appeal, the Petitioner submits a letter from the [redacted] Judiciary in Nigeria relating to the [redacted] 2016 Nigerian divorce documents she previously submitted. In the letter, the Assistant Chief Registrar notes that a typographical error was entered in the Suit Number, and states that the documents “genuinely emanated from the High Court of [redacted] Division.” The Petitioner also submits what she claims are corrected copies of the Divorce Decree Nisi and Decree Absolute, both indicating that the Petitioner’s prior marriage was terminated in [redacted] 2016.

The record on appeal includes additional evidence that is relevant to the Director’s determination that the Petitioner had not entered a qualifying relationship with M-C-. Accordingly, we will remand the matter for the Director to review the evidence in the first instance and determine whether the Applicant has met her burden of establishing that she entered a qualifying relationship, as required by 8 C.F.R. § 204.2(c)(2)(ii).

ORDER: The Director’s decision is withdrawn.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