



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

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

In Re: 27258768

Date: JUL. 24, 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. *See* 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 petition, concluding that the record did not establish that the Petitioner was in a qualifying relationship with her U.S. citizen spouse because she could not establish the termination of her prior marriage in Nigeria. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner states that she has provided sufficient documentary evidence of the termination of her prior marriage.

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.

I. LAW

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in relevant part, that they have a qualifying relationship with their U.S. citizen spouse and 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), based on that relationship. Section 204(a)(1)(A)(iii)(II) of the Act; 8 C.F.R. § 204.2(c)(1). Among other things, a petitioner must submit evidence of the qualifying marital 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(c)(2)(ii). Petitioners are “encouraged to submit primary evidence whenever possible,” but may submit any relevant, credible evidence to establish eligibility. 8 C.F.R. § 204.2(c)(2)(i). U.S. Citizenship and Immigration Services (USCIS) determines, 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 Petitioner, a citizen and national of Nigeria, entered the United States as a non-immigrant visitor in July 2017. After entering the United States, the Petitioner divorced her prior spouse, A-A-¹, and married J-F-, a U.S. citizen. She filed the current VAWA petition based on her marriage to J-F-. The Director determined that the Petitioner's initial Decree Nisi and Divorce Absolute from the High Court of [redacted] Judicial Division [redacted] did not conform to the standards normally associated with those documents. The Director emphasized that the signature of the registrar on the decrees did not conform to the actual signature of the registrar purported to have signed the documents. The Director sent a request for evidence (RFE) in July 2021 identifying the issues and providing the Petitioner with an opportunity to submit additional evidence.

In response the Petitioner provided a second Decree Nisi and Divorce Absolute from the High Court of [redacted] Judicial Division [redacted] that contained information not consistent with the original Decree Nisi and Divorce Absolute. In her statement to the Director submitted in response to the RFE, the Petitioner claimed that she began divorce proceedings against A-A- in February 2015 due to marital problems, but the judge allowed the couple to seek reconciliation. The Petitioner further claimed that in July 2017 she traveled to the United States with A-A- where he abandoned her and started a relationship with another woman. As a result, the Petitioner stated that she re-started the divorce proceedings, receiving a Decree Nisi in August 2017 and a Divorce Absolute in [redacted] 2017. According to the second Decree Nisi from the High Court of [redacted] in the [redacted] Judicial Division [redacted] submitted with her RFE response, divorce proceedings were initiated in February 2017 on grounds of abandonment and at the hearing in August 2017 the Petitioner gave oral testimony. The second Decree Nisi was issued under suit number WD/145/2017 and order XIX rule 7 (2). The corresponding Divorce Absolute states that it was also issued under order XIX rule 7 (2) with an order under Section 57 of the Matrimonial Causes Act in August 2017. Section 57 of the Matrimonial Causes Act relates to the court's obligation to ensure that satisfactory arrangements are made for any children born of the marriage who are under the age of 16 at the time of the divorce proceedings. The Director determined that the new divorce documents directly contradicted the Petitioner's statements regarding her divorce proceedings. Specifically, that she appeared to provide oral testimony in August 2017 when she was already living in the United States and that she initiated divorce proceedings in 2015.

The Director issued a second RFE in May 2022 and received, in response, a third Decree Nisi and Divorce Absolute, a letter from the [redacted] Judiciary, a letter from the Petitioner's attorney in Nigeria, and an affidavit from the Petitioner's father stating that he was present for the hearing regarding the Decree Nisi in August 2017. The third Decree Nisi, submitted in September 2022, was issued by the High Court of [redacted] Judicial Division [redacted] with suit number [redacted]. This order was issued under Order XII rule 1 and claims that both the Petitioner and A-A- were absent from proceedings but remained domiciled in Nigeria. The decree did not mention the Petitioner's father representing her in court. The Divorce Absolute is from the same court with the same suit number but states it was issued under Order XII rule 7 (2) and that there was no order under Section 57, in contradiction of the second Divorce Absolute submitted with the first RFE response. The Director determined that the significant discrepancies between the multiple

¹ We use initials to protect the privacy of individuals.

divorce documents cast doubt on the Petitioner's claims regarding her divorce from A-A- and as a result, the Petitioner had not met her burden of establishing that she was free to marry J-F- in [] 2019.

Upon de novo review, the Petitioner has not met her burden of proof in establishing the termination of her prior marriage and thus a qualifying relationship with her U.S. citizen spouse. On appeal, the Petitioner has provided a fourth Decree Nisi and Divorce Absolute, a personal statement regarding the acquisition of her divorce documents, a letter of confirmation of divorce certificates from the Petitioner's attorney in Nigeria, and a letter from the [] Judiciary regarding the formatting of the "original" Decree Nisi and Divorce Absolute. In her statement on Appeal, the Petitioner states that her attorney in Nigeria worked with the court to have the "errors" in the divorce documents "rectified." The Petitioner did not provide a reasonable explanation for the existence of the multiple errors and multiple copies of what should be uniform documents and records from the court. The letter from the [] Judiciary did not explain why these errors occurred or why the court in [] is issuing a new divorce decree for proceedings that appear to have been originally completed in a different jurisdiction in []. The fourth Decree Nisi submitted on appeal from the High Court of [] Judicial Division [] was issued under Order XII rule 1 with suit number [] and states that the parties were absent, but counsel appeared for the Petitioner. The Decree Nisi states that the marriage had "broken down irretrievably lack of love, trust, care, non consummation and desertion by the respondent." We note that the Petitioner and her prior spouse had at least one child together and therefore would not be able to claim "non consummation" as a reason for divorce. The Divorce Absolute issued in connection with the fourth Decree Nisi states that no order was made under Section 57 and does not otherwise mention arrangements for care of the minor child born of the marriage, a requirement under the Matrimonial Causes Act. The evidence provided on appeal does not resolve the significant discrepancies identified by the Director but adds additional inconsistencies among the many documents. While the letter from the [] Judiciary claims that the newly issued certificates are valid, it does not explain the reason that so many different certificates were issued in different formats with inconsistent information. Based on the entire record, the Petitioner has not demonstrated, by a preponderance of the evidence, that her prior marriage was terminated such that she was legally free to marry J-F- in [] 2019. *See Matter of Chawathe*, 25 I&N Dec. at 375-76 (stating that the petitioner bears the burden to establish eligibility and must do so by a preponderance of the evidence).

After a careful review of the entire record, including the evidence submitted on appeal, we conclude that the Petitioner has not established the legal termination of her prior marriage, as required. 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 or that she is eligible for immediate relative classification based on such relationship.

ORDER: The appeal is dismissed.