



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

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

In Re: 27437303

Date: JUL. 31, 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 into a qualifying relationship with a United States citizen. 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 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 termination of all prior marriages for the petitioner and the spouse. 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 in order 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).

The Petitioner, a native and citizen of Nigeria, married C-S-¹ in [] 2018, and filed his Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition), in April 2020 based upon this marriage. With his VAWA petition, he submitted a copy of a divorce document for his previous marriage in Nigeria. After review of the initial evidence, the Director issued a request for evidence (RFE) and informed the Petitioner of inconsistencies within documents contained in his

¹ We use initials to protect the identity of individuals.

record. In response to the RFE, the Petitioner submitted a different copy of divorce documents relating to his first marriage in Nigeria. Ultimately, the Director denied the VAWA petition, determining that the Petitioner had not established that he had entered into a qualifying relationship with C-S-, as he had not resolved the inconsistencies relating to his divorce in Nigeria.²

In our review of the record, the Petitioner has submitted three different sets of divorce documents, each originating from a different location:

- The first, submitted with his Form I-130, Petition for Alien Relative, was issued in the Customary Court of [redacted] of Nigeria, in the [redacted] at [redacted] on [redacted] 2018. This “Certificate of Divorce” indicated that the court dissolved the marriage on [redacted] 2018. This certificate is stamped and signed by the President of the Court, but does not provide a name for this individual;
- The second, submitted with his VAWA petition, was issued in the Customary Court of [redacted] of Nigeria, in the [redacted] on [redacted] 2018. This document also indicated that the marriage was dissolved on [redacted] 2018³. This certificate indicated that the proceedings were heard before Mr. E-O-F-, President; Mr. K-A-, Member; and Mr. S-A-, member;
- The third, submitted in response to the Director’s RFE, was issued in the High Court of Justice, [redacted] Nigeria in the [redacted] Judicial Division [redacted]. This submission included a copy of a Decree Nisi, which noted that the suit was heard on March 7, 2018, and was issued on [redacted] 2018, and Decree Absolute, issued on [redacted] 2018. These documents indicated that the proceedings were before The Honorable Justice A-B-, “Judge of the High Court of Justice [redacted] of Nigeria Sitting at the [redacted] Judicial Division [redacted] of Nigeria.”

With his appeal, the Petitioner submits a brief, a verification letter from the High Court of Justice in the [redacted] of Nigeria, and copies of the third divorce documents. In his brief, the Petitioner contends that he has now provided a letter verifying that the divorce was legitimate, and that the third divorce documents contain no errors. He further asserts that he has addressed the issues to the best of his ability by obtaining the verification letter, and that the “alleged misprints” do not lead to a conclusion that the first and second divorce documents were invalid. In our de novo review, we note that the Petitioner has not provided an explanation as to why he has provided three sets of divorce documents, each of differing origins, and signed by different individuals. We also note that the first and second sets were issued by Customary Courts, and the third was issued by a High Court of Justice.

² The Director’s decision also indicated that they searched the [redacted] Judiciary online directory for information regarding the Petitioner’s divorce and were unable to locate any information. As noted by the Petitioner on appeal, his divorce occurred in [redacted] Nigeria, and therefore would not have been in the [redacted] online director. We withdraw the Director’s determination that the absence of the divorce information in this directory is considered an inconsistency or discrepancy.

³ In the Director’s decision, they noted multiple issues with this divorce document, relating to typographical errors and inconsistencies with the dates present. The document is marked as being signed on [redacted] 2018, but the first page is stamped [redacted] 2018; the Petitioner’s former spouse is noted as the “PLAITIFF” and the stamp indicates that it is a “CLRTIFIED TRUE COPY.” We also note that the header of the document indicated that it was in the “CUSTOAMRY” Court.

While the Petitioner has submitted the verification letter from the High Court of Justice, which states that the details in the third set of divorce documents are accurate, we determine, in our own discretion, what evidence is credible, and the weight given to such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). The significant, unresolved discrepancies between the issuance and submission of the three different sets of divorce documents, along with a lack of explanation from the Petitioner regarding the discrepancies and distinctions in these documents, are material to the requirement that he establish that he entered into a qualifying relationship with C-S-. In light of these significant and material discrepancies, the credibility and evidentiary weight of the third set of divorce documents and the other evidence of record he submitted to establish his qualifying relationship is limited. Therefore, the Petitioner has not met his burden to establish by a preponderance of the evidence that his prior marriage in Nigeria was legally terminated, and thus that he entered into a qualifying relationship with C-S-.

The Petitioner has not established, by a preponderance of the evidence, that his prior marriage was legally terminated, and as such, has not established that he entered into a qualifying relationship, as required. 8 C.F.R. § 204.2(c)(2)(ii). The VAWA petition remains denied.

ORDER: The appeal is dismissed.