



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

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

In Re: 25839822

Date: JUN. 1, 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). On appeal, the Petitioner reasserts her eligibility for VAWA classification. 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

I. LAW

Petitioners who are spouses of U.S. citizens may self-petition for immigrant classification if they demonstrate they entered into marriage with the U.S. citizen in good faith and that, during the marriage, they were battered or subjected to extreme cruelty perpetrated by their U.S. citizen spouse. Section 204(a)(1)(A)(iii) of the Act; 8 C.F.R. § 204.2(c)(1)(i). 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).

Petitioners may submit any credible evidence relevant to the VAWA petition for us to consider; however, we determine, in our sole discretion, the credibility of and the weight to give such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). Petitioners bear the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The record reflects that in December 2018, the Petitioner, a citizen of Nigeria, filed a VAWA petition wherein she indicated that she had been married two times. With her petition, the Petitioner submitted copies of her marriage certificate, Decree Nisi of Dissolution (decree nisi) and Certificate of Decree

Absolute (decree absolute) from her first spouse, C-A-O-.¹ In May 2022, the Director issued a request for evidence (RFE) informing the Petitioner that the evidence was insufficient to establish that she was free to marry K-C-, her U.S. citizen spouse, as there were anomalies in the decrees nisi and absolute, which called into question their authenticity. In response to the RFE, the Petitioner submitted the original [redacted] 2016 decree nisi and [redacted] 2016 decree absolute, issued by the High Court of [redacted] Nigeria in the [redacted] Judicial Division, an Affidavit of Facts issued by the Federal High Court of Nigeria in the [redacted] Judicial Division, an affidavit from C-O-, her former brother-in-law, tax returns from the Internal Revenue Service (IRS), a June 2018 letter from the U.S. Department of Treasury, Bureau of Fiscal Service, August 2017 letters from Wells Fargo regarding an overdrawn joint bank account, and letters of support from a friend and church member.

The Director denied the petition, noting that the decrees nisi and absolute contained significant discrepancies which called into question the validity of the documentation submitted to establish the Petitioner's divorce from C-A-O-. These discrepancies included the suit numbers on the decrees nisi and absolute, which the Director noted were not correctly formatted per the [redacted] Judiciary and the U.S. Consulate in [redacted].² The Director further noted that the decree nisi was issued on [redacted] 2016; however, the decree absolute indicated that the decree nisi was issued on [redacted] 2016. Additionally, the decree absolute stated that the decree nisi became absolute on [redacted] 2016, which conflicted with the decree nisi stating that it would become absolute on [redacted] 2016, or three months after [redacted] 2016. The Director stressed that a review of the Matrimonial Causes Act (MCA) revealed other inconsistencies, namely, that her decree nisi did not include a determination that the Petitioner or C-A-O- was domiciled in Nigeria and that the decree nisi indicated the Petitioner's marriage to C-A-O- was dissolved due to "irreconcilable differences," an unrecognized ground for divorce under the MCA. Finally, the Director noted that C-O- and F-O- stated in their affidavits that the Petitioner married C-A-O- in the [redacted] Government Area of [redacted] and divorced him on [redacted] 2016—two statements that were inconsistent with the decrees. The Director determined, in light of the aforementioned inconsistencies in the divorce decrees submitted to USCIS and the other discrepancies noted, that USCIS could not determine the authenticity of the documents. Therefore, the Petitioner had not submitted sufficient evidence that she was free to marry her U.S. citizen spouse, and the Director concluded that she did not establish a qualifying relationship with a U.S. citizen, or that she is eligible for immigrant classification based on that qualifying relationship.

The Petitioner makes numerous contentions on appeal, and, while acknowledging the inconsistencies in her divorce decrees, she contends that they "[were] a product of ineffective counseling which has been rectified by her new attorney."³ She submits, among other things, an updated affidavit, a copy of a revised decree absolute,⁴ and several letters from her attorney in Nigeria addressing some of the discrepancies in the decrees.

¹ Initials are used to protect the individual's privacy.

² We additionally note that the initial decrees indicated that C-A-O- filed the divorce petition.

³ The Petitioner submitted e-mail correspondence and UPS and FedEx tracking information indicating that she filed a complaint against her former attorney with the Nigeria Bar Association and the Legal Practitioners Disciplinary Committee.

⁴ The Petitioner states that she submitted revised decrees nisi and absolute on appeal. However, no decree nisi was received.

After a careful review of the entire record, including the new evidence submitted on appeal, we conclude that the Petitioner has not established a qualifying marital relationship as she has not provided sufficient proof of the legal termination of her marriage to C-A-O-, as required. *See* 8 C.F.R. §§ 204.2(b)(2), (c)(2)(ii). In this case, the Petitioner has not established, by a preponderance of the evidence, that she was free to marry her U.S. citizen spouse. In a letter, the Petitioner's attorney in Nigeria states that, "[the Petitioner] engaged the services of [his] law firm to help regularize the inconsistencies noticeable in the USCIS denial notice" and "we have completed our representation in this regard and have submitted our latest findings and corrections to [the Petitioner]." However, the attorney did not explain what steps he took to "regularize" the inconsistencies in the decrees with the High Court. We note that the revised "Certificate of Decree Absolute" issued by the High Court of [redacted] in the [redacted] Judicial Division now has a correctly formatted suit number indicating the Petitioner filed the petition. The "Certificate of Decree Absolute" also now states that the decree nisi was issued on [redacted] 2016, and became absolute on [redacted] 2016— three months after the date of the decree nisi. However, a search of the suit number on the [redacted] Judiciary's database indicates the case was "newly filed" on November 1, 2016, despite the decree itself indicating the divorce was final before that date and the Petitioner's contentions that divorce proceedings commenced in [redacted] 2016. Of additional concern is the fact that the revised "Certificate of Decree Absolute" the Petitioner submitted in response to the RFE in 2022 is still dated [redacted] 2016. Finally, we acknowledge the letter from the Petitioner's attorney in Nigeria asserting that the discrepancy regarding the title of the decree absolute and the absence of the judge's and attorney's names on the decrees do not preclude a finding that they are valid. However, the letter does not sufficiently address the other inconsistencies outlined above.

Consequently, without sufficient evidence that the Petitioner was free to marry C-A-O-, we do not find that she has met her burden of establishing a qualifying marital relationship with a U.S. citizen for purposes of immigrant classification under section 204(a)(1)(A)(iii) of the Act. Because the Petitioner did not demonstrate a qualifying marital relationship, she also did not establish that she is eligible for immediate relative classification based on such a relationship. The petition will therefore remain denied.

ORDER: The appeal is dismissed.