



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

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

In Re: 26807983

Date: JUN. 15, 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 entered a qualifying relationship with her U.S. citizen spouse based on discrepancies in the divorce documents provided as evidence of termination of her prior marriage. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner states that she provided the only divorce decree that she has available.

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 relevant part, that they 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). Section 204(a)(1)(A)(iii) of the Act; 8 C.F.R. § 204.2(c)(1). 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(b)(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).

The Petitioner, a citizen and national of Nigeria, entered the United States in April 2013. She married W-S-¹, a U.S. citizen, in [REDACTED] 2014 and filed the current VAWA petition based on that

¹ We use initial to protect the privacy of individuals.

relationship. The Director determined that the Decree Nisi and Divorce Absolute from the [redacted] Judiciary [redacted]—submitted by the Petitioner to document the alleged termination of her first of two marriages in Nigeria—did not conform to the standards of divorce decrees from Nigeria as articulated in the U.S. Department of State’s Reciprocity Schedule. In addition, the Director stated that a corresponding record for the Petitioner’s divorce proceedings could not be located on the [redacted] [redacted] Judiciary online database. As a result, the Director determined that the Petitioner did not meet her burden of proof in establishing that she was free to marry W-S- and therefore could not establish a qualifying relationship under VAWA.

On appeal, the Petitioner provides a short personal statement and additional documentary evidence related to her divorce, however, she does not identify any erroneous conclusion of law or statement of fact made by the Director. The Petitioner states that after coming to the United States she learned from her children that her prior spouse was having an affair with another woman and requested that one of her relatives file for divorce on her behalf. She further states that she believed the documents she submitted as evidence of divorce to be the full and complete divorce documents.

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. In addition to the evidence previously submitted to the Director, the Petitioner submits a new letter from the Chief Registrar of [redacted]. The letter states that the Decree Nisi and Divorce Absolute submitted to the court by the Petitioner are not a “true reflection of the Forms 35 & 41 issued by this honorable court.” The Chief Registrar further states that court records exist relating to the Petitioner’s divorce and a new copy of the Decree Nisi and Divorce Absolute were issued with the letter. He further states that the divorce is not reflected in the internet database because the database was not in use in 2013. While a copy of the Decree Nisi was submitted on appeal, no copy of the new Divorce Absolute was provided. The Decree Nisi states that “oral testimony” was taken from the Petitioner at the July 2013 hearing. By her own admission, the Petitioner was already living in the United States at the time of the hearing and could not have been present for court proceedings in Nigeria. This discrepancy casts additional doubt on whether the documents submitted by the Petitioner reflect the true records of the [redacted] Judiciary. We acknowledge the submission of the additional letters from the Petitioner’s attorney in Nigeria to the [redacted] Judiciary, however, the letters do not resolve the significant discrepancies identified above. Based on the evidence submitted, 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 W-S-. *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 marriages, 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, as required.

ORDER: The appeal is dismissed.