



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

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

In Re: 26845161

Date: JUN. 20, 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 Petitioner did not establish a qualifying relationship with his U.S. citizen spouse. On appeal, the Petitioner submits additional documents related to his divorce but has not provided a brief or personal statement. 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 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(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 2017 as a non-immigrant. He married J-T-¹ a U.S. citizen, in 2018 and filed the current VAWA petition based on that

¹ We use initials to protect privacy.

relationship. The Director determined that the signatures on the Decree Nisi and Divorce Absolute from the High Court of [] submitted as evidence of termination of the Petitioner's prior marriage do not match those of the assistant chief registrar whose name appears on those documents. The Director denied the petition finding that the Petitioner had not established a qualifying relationship to a U.S. citizen spouse because he was not legally free to marry J-T-. On appeal, the Petitioner resubmits copies of his Decree Nisi and Divorce Absolute from the High Court of [] and a letter from the Consulate General of Nigeria in Atlanta, Georgia.

Upon de novo review, the Petitioner has not met his burden of proof in establishing that he entered a qualifying marital relationship with J-T-. The Petitioner has not submitted a statement on appeal identifying any erroneous conclusion of law or statement of fact in the Director's decision. While the letter from the Consulate General states that the Decree Nisi and Divorce Absolute are authentic documents, it does not address the discrepancy between the name and signature in the Decree Nisi and Divorce Absolute, which formed the basis for Director's specific reason for denial. Moreover, the Department of State reciprocity table states that the High Court of each state is responsible for certifying registry divorces. U.S. Department of State, *U.S. Visa: Reciprocity and Civil Documents by Country, Nigeria*, <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Nigeria.html>. Therefore, the Consulate General for Nigeria in Atlanta is not the appropriate authority to certify the validity of divorce documents from the High Court of []

[] Based on the evidence submitted, and absent any statement from the Petitioner on appeal, the Petitioner has not demonstrated, by a preponderance of the evidence, that he was in a qualifying marital relationship with a U.S. citizen spouse, as required, because he was not legally free to marry J-T- at the time of their marriage. *See Matter of Chawathe*, 25 I&N Dec. at 375-76 (stating that the petitioner bears the burden to establish eligibility).

After a careful review of the entire record, including the evidence submitted on appeal, the Petitioner has not established the legal termination of his prior marriage, as required. 8 C.F.R. § 204.2(c)(2)(ii). The Petitioner, therefore, has not established a qualifying marital relationship with a U.S. citizen spouse or that he is eligible for immediate relative classification based on such relationship. The petition will remain denied.

ORDER: The appeal is dismissed.