



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

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

In Re: 26665716

Date: MAY 26, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse of U.S. Citizen

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 VAWA petition, concluding that the Petitioner did not establish a qualifying marital relationship with a U.S. citizen and her corresponding eligibility for immigrant classification based on that relationship. 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

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 the marriage with the U.S. citizen spouse in good faith and the petitioner was battered or subjected to extreme cruelty perpetrated by the qualifying relative. Section 204(a)(1)(A)(iii) of the Act; 8 C.F.R. § 204.2(c)(1). A petitioner must also show 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). *Id.* 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 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 of Nigeria, entered the United States in December 2015 with a visitor visa. The Petitioner married R-T-,¹ a U.S. citizen, in [] 2016. The Petitioner filed her VAWA petition in June 2019 based on her marriage with R-T-. According to documents submitted with the petition, the Petitioner divorced her first spouse, S-U-, in [] 2015. The Director issued a request for evidence (RFE), notifying the Petitioner that the submitted documentation of her previous marriage's termination contained inconsistencies which called into question the credibility of the evidence. The Director noted, in relevant part, that the Decree Nisi and Decree Absolute from the High Court of [] did not reflect the proper formatting of divorce documents in Nigeria² and an online search on the [] Judiciary Information website did not result in matches for the Petitioner's documents. The Director additionally requested clarification concerning inconsistencies between the submitted documents. For example, though the Decree Nisi indicated the divorce order shall be made absolute three months after the date of the Decree Nisi, the Decree Absolute indicated the same date, [] 2015, for the Decree Nisi and the Decree Absolute.

In response to the Director's RFE, the Petitioner provided a second Decree Nisi. After reviewing the RFE response, the Director denied the VAWA petition, concluding the Petitioner did not overcome the deficiencies regarding the previously submitted Nigerian divorce documents and the second Decree Nisi contained additional inconsistencies. Specifically, the Decree Nisi submitted with the RFE response was issued by the [] Judicial Division and indicated the divorce petition was before the court in [] 2015, stipulated the decree shall be made absolute one month after the date of the Decree Nisi, and the Petitioner married S-U- on [] 2013. In contrast, the initial Decree Nisi was issued by the [] Judicial Division and indicated the divorce petition was before the court in [] 2015, stipulated the decree shall be made absolute three months after the date of the Decree Nisi, and the Petitioner married S-U- on [] 2015.

The Director found that the Petitioner had not established the legal termination of her marriage to S-U-. As a result, the Petitioner did not establish a qualifying spousal relationship to a U.S. citizen, based on her subsequent marriage to R-T-, as required under VAWA. On appeal, the Petitioner submits a statement asserting that the Director's decision was based on an incorrect assumption of facts that could not be substantiated at the time the decision was rendered and we must determine if the Petitioner has proved her eligibility by the preponderance of the evidence as allowed by applicable law.

Upon review, 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 has not provided an explanation to resolve the noted inconsistencies between the divorce documents as noted by the Director nor provided additional evidence on appeal to overcome these deficiencies. As a result, the Petitioner has not met her burden of proof in establishing that her subsequent marriage to R-T- in [] 2016 was legally valid. Therefore, she has not demonstrated by a preponderance of the evidence a qualifying marital relationship with a U.S. citizen spouse for purposes of immigrant classification under section

¹ We use initials to protect the privacy of individuals.

² 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.html>

204(a)(1)(A)(iii) of the Act and is not eligible for immediate relative classification based on such a relationship.

ORDER: The appeal is dismissed.