



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

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

In Re: 25530322

Date: MAY 26, 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 spousal relationship because he did not demonstrate that his previous marriage had been terminated prior to his marriage to his abusive U.S. citizen spouse and consequently, he necessarily did not establish corresponding eligibility for immediate relative 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.

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). Section 204(a)(1)(A)(iii) 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 is a citizen and national of Nigeria who entered the United States as a nonimmigrant visitor in April 2017. The Petitioner married L-M-<sup>1</sup>, a U.S. citizen, in [ ] 2017 and filed the current VAWA petition based on that relationship. As evidence of termination of his prior marriage to I-E-A- in Nigeria, the Petitioner submitted to the Director a Decree Nisi and Divorce Absolute from The High Court of [ ] District, Nigeria, indicating that the marriage was dissolved in [ ] 2017. The Director determined that the documentation contained irregularities and was not sufficient evidence of termination of the Petitioner's prior marriage. In response to the Director's request for evidence, the Petitioner provided a [ ] 2017 customary judgment of divorce from the customary court in [ ] Nigeria, which states that his marriage to I-E-A- was conducted under customary rights and that the customary court had jurisdiction to terminate the marriage. The Director found that in light of several inconsistencies in the Nigerian divorce documents relating the Petitioner's former marriage to and divorce from I-E-A-, the Petitioner did not establish the lawful termination of that marriage prior to his marriage to L-M- as required to establish the requisite qualifying relationship to a U.S. citizen.

On appeal, the Petitioner asserts that he has submitted sufficient evidence of the termination of his prior marriage and resubmits copies of all three divorce documents, the U.S. Department of State reciprocity table information regarding divorce in Nigeria, and a letter from an attorney in Nigeria. The Petitioner argues that his marriage to I-E-A- was a customary marriage and that therefore the customary divorce judgment, alone, is sufficient to meet the Petitioner's burden and that since the Director already discounted the High Court divorce documents from [ ] they should not be used to invalidate or discredit the Petitioner's customary divorce.

Upon de novo review, as the Petitioner has submitted inconsistent evidence regarding his marriage to and divorce from I-E-A-, which has not been resolved on appeal, he is unable to meet his burden of proof to establish that he was not still legally married to her at the time he married L-M-. Contained in the record is a copy of his and I-E-A-'s Certificate of Marriage registered with the civil authorities in [ ] Nigeria. The Certificate of Marriage was completed on Form E-First Schedule, consistent with section 24 of The Marriage Act governing the registration of marriages in Nigeria, indicating that the marriage was in fact a registry marriage, rather than a customary marriage as he claims on appeal. According to the Department of State reciprocity table information provided by the Petitioner, only the High Court can legally terminate or dissolve a registry marriage. Consequently, the customary divorce judgment the Petitioner provided is not sufficient to establish the legal termination of his registry marriage to I-E-A- in Nigeria.

We acknowledge the divorce documents from the High Court that the Petitioner initially provided the Director; however, as stated, he specifically asserts on appeal that his marriage was a customary marriage and explicitly requests that we disregard those documents and rely on the customary divorce judgment instead to establish the termination of his former marriage. Moreover, he provides no explanation why he submitted the High Court divorce documents in the first instance if the marriage was a customary marriage and was never registered. Based on the evidence submitted, the Petitioner has not demonstrated, by a preponderance of the evidence, that he was free to legally marry L-M-, as the record indicates he was still legally married to his first spouse. *See Matter of Chawathe*, 25 I&N Dec.

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<sup>1</sup> We use initials to protect the privacy of individuals.

at 375-76 (stating that the petitioner bears the burden to establish eligibility). Therefore, the Petitioner has not established he had a qualifying relationship as the spouse of a U.S. citizen.

After a careful review of the entire record, including the arguments made on appeal, we find that 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, by a preponderance of the evidence, a qualifying marital relationship with a U.S. citizen spouse, as required. Because the Petitioner has not demonstrated the requisite qualifying marital relationship, he also has not established that he is eligible for immediate relative classification based on such relationship.

**ORDER:** The appeal is dismissed.