



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

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

In Re: 28673312

Date: NOV. 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's prior marriage was terminated in accordance with the laws in the country of Nigeria and therefore the Petitioner was unable to establish a qualifying relationship with his U.S. citizen spouse. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner asserts that the evidence he provided is genuine and that he was divorced in accordance with the laws of Nigeria.

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 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).

II. ANALYSIS

The Petitioner is a citizen and national of Nigeria who entered the United States as a nonimmigrant visitor in July 2014. The Applicant married T-G-¹, a U.S. citizen, in [] 2014 and filed the current VAWA petition based on that relationship. The Petitioner claims that the marriage to his first spouse, O-D-, was terminated by divorce in [] 2014. To support his claim, the Petitioner provided a Decree Nisi of Dissolution of Marriage (Decree Nisi) and a Certificate of Decree Absolute (Decree Absolute) from the High Court of [] Judicial Division Holden at []. The Director identified several inconsistencies between the documents provided by the Petitioner and information provided by the U.S. Department of State related to the signatures of the registrar and other missing information. The Director issued a request for evidence (RFE) providing the Petitioner with an opportunity to explain the discrepancies and provide additional evidence that his marriage to O-D- had been lawfully terminated. In response, the Petitioner provided a letter from an attorney in Nigeria regarding the divorce records, additional copies of the Decree Nisi and Decree Absolute, an affidavit from G-S- regarding the divorce, and a letter from the Assistant Chief Registrar for the [] State Judiciary attesting to the accuracy of the documents.

The Director determined that the evidence provided was insufficient to establish the termination of the Petitioner's marriage to O-D-. In particular, the Director noted that the signature and stamp of the Assistant Chief Registrar did not match examples of valid signatures and stamps provided by the Department of State. In addition, the Decree Absolute was made final more than three months after the issuance of the decree nisi and the Decree Nisi and Decree Absolute were signed in 2023, some ten years following the claimed divorce. The Director further noted that the online court records system used by the [] State Judiciary indicates that the case status of his divorce is "newly filed." As a result of the above discrepancies in the record the Director denied the VAWA petition because the Petitioner had not established a qualifying relationship to his U.S. citizen spouse as required.

On appeal, the Petitioner argues that the documents he provided to the Director are genuine and that he has met his burden of proof in establishing that his marriage was properly terminated. Upon de novo review, the inconsistencies in the record cast doubt on the documents provided by the Petitioner and are not fully resolved by the evidence submitted on appeal. To support his claim the Petitioner provides a letter from an attorney in Nigeria, a letter purported to be from the [] State judiciary, and a statement from the Petitioner. In his statement the Petitioner states that he does not know why the online record system indicates his divorce is newly filed but speculates that it is because the final decision was not digitized. The Petitioner admits that he does not know the reason for the discrepant information and is only guessing as to the cause. The Petitioner further states that stamps and signatures often contain irregularities but does not explain why a stamp or signature would contain these irregularities or how he knows it to be a common occurrence. The Petitioner has not provided a description of the process of his divorce, the reason he sought divorce from his first spouse, who at the time of divorce proceedings was pregnant with his second child, or provided the name of the solicitor who assisted in his divorce. The letter from the Nigerian attorney states that the court verified that the suit was filed in June 2013 and that the signature of the registrar is accurate. The attorney further states that the Petitioner's electronic record failed to update due to a technical error. The letter

¹ We use initials to protect the privacy of individuals.

purported to be from the [] State Judiciary is signed by the Acting Chief Registrar but does not contain a court seal, stamp, or notary that are common in documents issued by the court. In addition, the document was altered with a black marker and white out, casting doubt on the legitimacy of the letter.

The Director noted in their denial that, contrary to Nigerian law, the Decree Nisi and Divorce Absolute were dated more than three months apart. The Petitioner argues that Nigerian law does not require a decree nisi to become absolute exactly three months after it is ordered, but instead, it can become absolute any time after three months have passed. The Petitioner cites Nigerian law, part II, section 59 of the Matrimonial Causes Act, to support his claim. However, that section of the Matrimonial Causes Act identifies how the registrar will maintain records and not the legal requirements related to when a decree nisi becomes absolute. The Nigerian Matrimonial Causes Act² of 1970 part II, section 58 states, in part:

- (1) Subject to this section, where in relation to a decree nisi-
 - (a) section 57 above applies, the decree nisi shall become absolute by force of this section at the expiration of –
 - (i) a period of three months from the making of the decree; or
 - (ii) a period of 28 days from the making of an order under subsection (1) of that section,

The term, “at the expiration of a period of three months” is unambiguous and requires, by operation of law, that a decree nisi become final at the conclusion of the specified period of time. The Petitioner’s arguments that there is no legal requirement for a decree nisi to become absolute exactly after three months is therefore in error and unsupported by the record. Therefore, the documents provided by the Petitioner as evidence of the termination of his prior marriage continue to have unresolved inconsistencies that have not been adequately explained on appeal³. Based on the foregoing information, we conclude that the Petitioner has not met his burden of proof to establish the lawful termination of his marriage to B-O-. *Matter of Chawathe*, 25 I&N Dec. at 375-76. As a result, he has not established a qualifying relationship to his U.S. citizen spouse, as required. Section 204(a)(1)(A)(iii)(II) of the Act; 8 C.F.R. § 204.2(c)(1).

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

² In a brief submitted to the AAO, counsel for the Petitioner cites the “Matrimonial Causes Act” in Nigerian law and claims that it supports the proposition that following the issuance of a decree nisi it can become absolute any time after three months have passed. Counsel does not reference a specific provision of the Matrimonial Causes Act, thus we have examined the Act to assess whether any sections address the circumstances of a decree nisi becoming absolute to determine if counsel’s assertion is supported.

³ While not necessary to reach our final decision, we note additional inconsistencies not addressed by the Director. The Decree Absolute states that an order under section 57, relating to the care and maintenance of children, was made on the same date as the Decree Nisi, but the Decree Nisi does not contain an order relating to the children born of the marriage. The absence of an order that is required under Nigerian law further undermines the legitimacy of the documents provided by the Petitioner. In addition, the stated reason for divorce on the Decree Nisi is “irreconcilable differences.” The Matrimonial Causes Act of 1970 part II section 15 contains eight specific grounds for dissolution of a marriage. “Irreconcilable differences” is not one of the eight grounds for dissolution of marriage in the Matrimonial Causes Act.

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.