



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

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

In Re: 27611747

Date: AUG. 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 was in a qualifying relationship with her U.S. citizen spouse because she could not establish the termination of her prior marriage in Nigeria. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner provides additional documentary evidence regarding her divorce in 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(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, a citizen and national of Nigeria, entered the United States in June 2015 as a non-immigrant visitor. She married M-S-<sup>1</sup> in [REDACTED] 2016 but divorced in [REDACTED] 2017. The Petitioner then married A-F-O-, a U.S. citizen, in [REDACTED] 2017 and filed the current VAWA petition based on that relationship.

Prior to coming to the United States, the Petitioner was married to L-I-N- in Nigeria. As evidence of the termination of her prior marriage, the Petitioner provided a Decree Nisi and Divorce Absolute from the High Court of [REDACTED] Judicial Division with suit number [REDACTED]. The Decree Nisi was ordered in May 2015 and the Decree Absolute became final on [REDACTED] 2015. Both documents contain a stamp from the cash office indicating they were paid for on August 31, 2015. The Director determined that the documents contained irregularities not normally seen in divorce documents from Nigeria and issued a request for evidence. In response the Petitioner provided a second Decree Nisi and Divorce Absolute from the High Court of [REDACTED] Judicial Division with suit number [REDACTED]. The Decree Nisi was ordered in May 2015 and the Divorce Absolute was ordered [REDACTED] 2015. The documents were signed by the registrar on August 22, 2022 and contain a stamp from the cash office for the same date. The Director identified several inconsistencies between the two documents including: different suit numbers, different dates for the final order, different rulings regarding who was awarded custody of the three children, different court divisions issuing the documents, and changes to the name of the Petitioner's prior spouse. The Director further determined that the registrar is not an appropriate authority to issue the divorce documents. In addition, the Director determined that the [REDACTED] Judiciary's online archive did not reflect the information contained in the divorce documents provided. The Director denied the petition stating that the Petitioner had not met her burden of proof to establish the termination of her prior marriage due to the inconsistent information on the documents.

On appeal, the Petitioner provides an additional set of Decree Nisi and Divorce Absolute, a letter from the High Court of [REDACTED] judicial division regarding the authenticity of the documents, correspondence between the Petitioner's Nigerian attorney and the court, and a copy of the petition for divorce served on the court. The new Decree Nisi with suit number [REDACTED] from the High Court of [REDACTED] Judicial Division submitted on appeal was determined in February 2015. The Decree Absolute was determined in May 2015. Both documents were issued in January of 2023. A letter from the [REDACTED] Judiciary states that the two prior divorce decrees contained inconsistencies regarding layout, signatures, and online verification. It states that both sets of documents have been withdrawn and new corrected copies issued. The letter also provided information regarding the legal authority of the Chief Registrar and his designees to sign the divorce documents. The letter further states that the court takes responsibility for the mix-up regarding the dates on the documents and that the protests in 2020 that resulted in the destruction of court records may have contributed to the mistaken dates. While the Petitioner has provided additional documents, she has not identified any error of law, policy, or precedent in the Director's decision.

Upon de novo review, we acknowledge that the chief registrar and his designees are the appropriate authority to sign and certify divorce documents in Nigeria. However, there remain significant

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

inconsistencies in the record that are not resolved by the evidence provided. We acknowledge the claims in the letter from the [REDACTED] Judiciary that certain records may have been damaged or destroyed during the protests against police violence. However, the record lacks an explanation of how a protest in 2020 would have affected the paper divorce documents issued by the court in August 2015. While the letter from the [REDACTED] Judiciary claims that the newly issued certificates are valid, it does not explain the reason that so many different certificates were issued in different formats with inconsistent information and suit numbers. The letter from the [REDACTED] Judiciary indicated that the information regarding the newly issued Decree Nisi and Divorce Absolute would be available on its website. A search for the record by the newly issued suit number did not reveal any results. A search by the Petitioner's name revealed that the suit, filed in December 2020, was rejected.

The Decree Nisi and Divorce Absolute submitted on appeal add additional inconsistencies in format, suit number and dates of determination. In addition, the new documents directly contradict the statements of the Petitioner regarding her divorce from her first spouse. In her affidavit submitted to the Director, the Petitioner indicated that when she first met M-S- in person in June 2015 she was still married to her spouse in Nigeria and sought counseling from the Catholic church regarding her divorce. She stated that following her meeting with the church she received her civil divorce from L-I-N-. She went on to state, "Once I was divorced" M-S- "and I became a serious couple." Her account of the events around her divorce indicate she was not yet legally divorced when she came to the United States in June 2015 and therefore casts further doubt on the accuracy of the divorce documents provided on appeal. While we must consider any credible evidence, USCIS has the discretion to determine 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). Due to the multiple inconsistencies across the many documents, the inability to confirm the information on these documents on the [REDACTED] Judiciary website, the discrepancies between the Petitioner's statement and information on the new divorce documents, and based on the entire record, 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 A-F-O- in August 2017. *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 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 or that she is eligible for immediate relative classification based on such relationship.

**ORDER:** The appeal is dismissed.