



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

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

In Re: 29461303

Date: DEC. 07, 2023

**Motion on Administrative Appeals Office 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 under the Violence Against Women Act (VAWA) provisions, codified at section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii).

The Director of the Vermont Service Center denied the petition, concluding that the Petitioner did not establish that the Petitioner was in a qualifying relationship with a United States citizen or lawful permanent resident. We dismissed a subsequent appeal. The matter is now before us on combined motions to reopen and reconsider.

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). Upon review, we will dismiss the motion.

**I. LAW**

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

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 into the marriage with the U.S. citizen spouse in good faith and the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii) of the Act. Among other things, the petitioner must submit evidence of the 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).

## II. ANALYSIS

In our prior decision, incorporated here by reference, we reviewed the copies of the Petitioner's divorce documents for her prior marriage in Nigeria to R-O-.<sup>1</sup> With her initial Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition), the Petitioner submitted a Decree Nisi Dissolution of Marriage, which indicates that it was entered on March 25, 2015, and a Certificate of Decree Absolute, which indicates that the Petitioner's divorce from R-O- became final on [ ] 2015. In response to a notice of intent to deny (NOID) issued by the Director, the Petitioner submitted new copies, which reference a different Suit Number, which ends in the year 2013, and further indicates that the Decree Nisi was entered on March 25, 2015, and the Decree Absolute indicates that the divorce became final on [ ] 2015.<sup>2</sup> The Petitioner, with her response to the NOID, asserted that the second set of divorce documents was correct, but did not provide an explanation as to how she obtained the initial documents, or why they were submitted if they were not genuine.

The Director denied the VAWA petition, determining that the July 2022 letter purportedly from the assistant chief registrar and the "correct" Decree Nisi of Dissolution of Marriage and Certificate of Decree Absolute were not authentic because the signatures did not match the exemplars of the assistant chief registrar on file with USCIS. In addition, the Director noted that the information provided in the July 2022 letter indicating that the electronic filing system commenced in February 2014 was not valid as the [ ] Judiciary Information System stated that electronic filing started in October 2013. Because the Petitioner did not establish that her first marriage was legally terminated, the Director concluded that she did not establish a qualifying relationship with a U.S. citizen, or that she was eligible for immigrant classification based on that qualifying relationship.

With her appeal, the Petitioner submitted a letter purportedly from the assistant chief registrar, dated October 28, 2022, once again confirming the validity of the divorce, including the date it was instituted (May 23, 2013), the case number, and the parties involved (the Petitioner and R-O-). The letter states that the seal of the court, signature, and stamp on the "correct" Decree Nisi of Dissolution of Marriage and Certificate of Decree Absolute are "true, correct and genuine" and explains that a search for the divorce records of the [ ] High Court's public online search of litigation cases rendered no results because the Petitioner's divorce was commenced in May 2013, before the electronic filing system was introduced in October 2013.

In our decision on her appeal, we also reviewed a July 2022 letter written purportedly by the assistant chief registrar, which noted that the Decree Nisi of Dissolution and Certificate of Decree Absolute initially submitted by the Petitioner "are defective and not a true reflection of the Forms 35 & 41 issued by the Honourable court" and are withdrawn. However, we determined that the letter did not address why the High Court of [ ] issued documents that were not "a true reflection" of forms issued by the court, and the Petitioner did not address this with her appeal.

The "correct" Decree Nisi of Dissolution of Marriage and Certificate of Decree Absolute that were submitted in response to the Director's NOID were also found to be inauthentic because of certain

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

<sup>2</sup> We noted in our decision on her appeal that the original decrees are signed and dated [ ] 2015, and indicate the decree nisi became absolute on that date, which is less than 3 months after March 25, 2015, the date of the decree nisi. The corrected decrees contain a different date for the decree absolute – [ ] 2015.

discrepancies related to the signatures of the assistant chief registrar and the lack of records of the divorce in the [ ] High Court's online filing system. The July 2022 letter purportedly from the assistant chief registrar stated that before the use of the court's electronic filing system in 2014, "the acronym WD or HD (Wife or Husband Divorce filing respectively) are used as suit for divorce matters" and the use of the acronym LD started in February 2014. We noted, however, that the decrees submitted with the petition contain a suit number with the acronym "MD", which does not conform to any standard format used by the court – either before or after the February 2014 commencement of the online filing system. The second set of "correct" decrees submitted in response to the Director's NOID contain a different suit number, beginning with the acronym "HD" and ending with the year 2013. As stated above, the July 2022 letter does not explain how the original decrees were defective or why the court issued decrees with incorrect suit numbers and other basic information.

Upon de novo review, we ultimately concurred with the Director's determination that the divorce documents submitted by the Petitioner did not appear to be authentic, and further that she had not provided an explanation for the discrepancies present between the two sets of divorce documents.

With the present combined motions, the Petitioner submits a third set of divorce documents, a letter from the Consulate General of Nigeria, printouts from the [ ] Judiciary Information System, and a statement. In review of the third set of divorce documents, the new Decree Nisi indicates that it was entered on March 25, 2016, and the Decree Absolute indicates that the divorce was final on [ ] 2016. These documents also indicate that they were purportedly signed on [ ] 2016, by the assistant chief registrar. Again, these dates differ from the prior divorce documents, which indicated that the divorce took place in 2015. Further, the Suit Number is different from both prior documents, although the Petitioner now submits printouts from the [ ] Judiciary Information System which reflect the Petitioner's divorce can be located based on the new Suit Number. This Suit Number reflects the "LD" acronym noted as well as the "HD" acronym, and no explanation is provided as to why the Petitioner was previously unable to locate the Suit Number if it was legitimate. In the letter from the Consulate General of Nigeria, an individual attests that the documents dissolving the Petitioner's marriage to R-O- "were presented to the Consulate General of Nigeria, New York, for verification, along with other supporting documentation" and further states that "the above referenced documents originated from the High Court of [ ] in the [ ] Judicial Division, [ ] [ ]

However, in her statement, the Petitioner does not provide any explanation as to why the dates indicated in this third set of divorce documents reflect that the Decree Nisi and Decree Absolute were entered in 2016, rather than 2015, as she has previously claimed. The Petitioner contends that "the court claimed that it was errors [from] them" but has not provided documentation in support of her contention, aside from the July 2022 letter discussed above. As such, we afford minimal weight to the letter from the Consulate General's verification, and the printouts from the [ ] Judiciary Information System. The Petitioner has now provided three separate sets of divorce documents, each bearing different dates and Suit Numbers, and has not provided an explanation as to how she obtained each of the different documents, or why they differ in their contents. The Petitioner has not resolved any of the prior discrepancies noted in our decision on her appeal, and again does not with her combined motions, while adding additional conflicting information as to the date of her divorce with R-O-.

### III. CONCLUSION

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. Additionally, the Petitioner has not established that our prior decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motions will be dismissed. 8 C.F.R. § 103.5(a)(4).

**ORDER:** The motion to reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.