



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

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

In Re: 28859401

Date: DEC. 8, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for 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 (the Director) denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition). The matter is now before us on appeal. 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 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).

In October 2019, the Petitioner, a citizen of Nigeria, filed a VAWA petition wherein she indicated that she had been married two times. In support, she submitted the Decree Nisi of Dissolution of Marriage and the Certificate of Degree Absolute. Said documents contained a "WD" suit number and indicated that on [REDACTED] 2016, the marriage was dissolved between the Petitioner and D-H,¹ and became absolute on [REDACTED] 2016.

In 2021, through a request for evidence (RFE), the Director informed the Petitioner that the record contained discrepancies with respect to the legal termination of her prior marriage to D-H-to establish that she was free to marry B-A-, her U.S. citizen spouse.² In response, the Petitioner submitted an affidavit and photographs of the Petitioner's ex-husband and his current spouse. In the affidavit, the Petitioner stated that she married D-H- in [REDACTED] 2003 and when she realized her marriage was not working out, she filed for divorce. On [REDACTED] 2016, she "had a decree nisi" and applied for a

¹ Initials are used throughout this decision to protect the identities of the individuals.

² The Director also requested additional evidence to establish the Applicant's good faith marriage to B-A-.

nonimmigrant visa on May 18, 2016. She contends that at the time she applied for a nonimmigrant visa, her divorce was not yet finalized and thus she stated on the nonimmigrant visa application that she was married. She asserts that she did not get the decree absolute until [REDACTED] 2016. She also explains that she stated on her nonimmigrant visas application that she and her daughter would be traveling to the United States with D-H- because “our daughter was not taking our decision to divorce well and wanted her dad to travel with us as we agreed initially prior to our divorce.” However, the Petitioner contends that she ultimately traveled only with her daughter to the United States.

In August 2022, the Director, through a second RFE, informed the Petitioner that the Decree Nisi of Dissolution of Marriage and the Certificate of Decree Absolute that were submitted with the VAWA petition were deemed to not be authentic and thus, they could not be accorded evidentiary weight in determining that the Petitioner had a qualifying relationship to B-A-. The Director stated that the suit number on both the Decree Nisi and Decree Absolute did not conform to the standard formatting of suit numbers of the [REDACTED] Judiciary and that the case did not appear in the [REDACTED] public online database. As a result, the Director requested “other credible evidence” to establish that the marriage between the Petitioner and D-H- was legally terminated.³

In response to the second RFE, the Petitioner submitted documentation including copies of a different Decree Nisi of Dissolution of Marriage and a Certificate of Decree Absolute dated in 2017 and a letter purportedly from the Assistant Chief Registrar, [REDACTED], stating the 2016 case between the Petitioner and D-H- containing a “WD” suite number was “commenced but not concluded” because “said suit was later struck out by the court for want of diligent prosecution.” The letter further stated that the case between the Petitioner and D-H- containing an “HD” suit number was made absolute on [REDACTED], 2017, and confirmation of said suit could be found on the [REDACTED] Website. A corresponding printout of the online verification from the [REDACTED] for the case containing an “HD” number was submitted in support, but the copy of the printout was cut off and did not show the status of the divorce suit and whether it was finalized.

The response also contained an affidavit from the Petitioner. The Petitioner detailed that when her marriage became toxic, she had a lawyer file for divorce on her behalf. After she and her daughter arrived in the United States in August 2016, the lawyer informed her that the divorce papers were complete and that upon receipt of the balance of his legal fees, he would mail the divorce papers to her in the United States, which he did. When she received the second RFE from the Director questioning the authenticity of the divorce documentation, she immediately reached out to her lawyer but got no response and thus, she was unable to verify the divorce documentation he had previously sent her. She hired another lawyer who was able to obtain copies of separate divorce documentation that her ex-husband had filed and stated that this divorce suit filed by D-H- had been finalized.

In the decision to deny the Petitioner’s VAWA petition, the Director determined that the Petitioner had not established that her marriage to D-H- was legally terminated prior to her marriage to a U.S. citizen. Specifically, the Director noted that the Decree Nisi of Dissolution of Marriage and Certificate of Decree Absolute submitted with the VAWA petition were different than the Decree Nisi of Dissolution of Marriage and Certificate of Decree Absolute submitted in response to the second RFE. The Director also stated that the Certificate of Decree Absolute submitted in response to the second

³ The Director also requested additional evidence to establish the Applicant’s good moral character.

RFE stated that the divorce between the Petitioner and D-H- became absolute on [REDACTED], 2017, but was “Dated [REDACTED] 2022,” which casted doubt on its authenticity. Moreover, the Director noted that USCIS had received notification from the [REDACTED] in July 2022 “to disregard any letter or mail from anyone or quarter representing the [REDACTED] and to only rely upon correspondence from the Chief Registrar of the [REDACTED]” and thus, the letter provided purportedly by the Assistant Chief Registrar of the [REDACTED] was insufficient to establish that the Petitioner obtained a valid and legal divorce from D-H-. 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.

On appeal, the Petitioner asserts that her first marriage was legally terminated and she is thus eligible for the benefit sought. In her May 12, 2023, affidavit, she contends that when she submitted her VAWA petition, she believed all the documentation she had provided in support of her divorce to D-H- was authentic. She also acknowledged that while the divorce documentation submitted with the VAWA petition is different than what she submitted to the Director in response to the second RFE, her divorce was ultimately finalized through the subsequent divorce proceeding for which she was a respondent. The Petitioner also submits a new copy of the 2017 Decree Nisi of Dissolution of Marriage and Certificate of Decree Absolute containing an “HD” suit number; the documents are identical to the prior decrees, but the newly submitted Certificate of Decree Absolute is dated [REDACTED] [REDACTED] 2017, rather than [REDACTED], 2022, the date provided in the Certificate of Decree Absolute submitted in response to the Director’s second RFE. In addition, the Petitioner submits a letter purportedly from the “Ag. Chief Registrar,” dated May 9, 2023, again confirming the validity of the divorce and explaining that any previous portal that shows that the divorce case between the Petitioner and D-H- was “newly filed” is incorrect. Said letter also stated that the [REDACTED], 2022 date provided in the Certificate of Decree Absolute which was submitted in response to the Director’s second RFE is a “clerical error on the part of the clerical staff” and the “intended date is” [REDACTED], 2017. The Petitioner also submits a May 11, 2023, letter from a Nigerian lawyer verifying the authenticity of the Petitioner’s divorce.

On appeal, the Petitioner has not established a qualifying marital relationship as she has not provided sufficient proof of the legal termination of her marriage to D-H- as required. As explained by the Director, the Decree Nisi of Dissolution of Marriage and Certificate of Decree Absolute initially submitted by the Petitioner in support of her VAWA petition were found not to be authentic. The documentation in the record does not address why the [REDACTED] issued documents that were not accurate. We also note that the second Certificate of Decree Absolute, purportedly issued on [REDACTED], 2017, is dated [REDACTED], 2022, but the copy of the Certificate of Decree Absolute submitted on appeal for the same divorce suit is dated [REDACTED], 2017. The Petitioner claims this divorce was finalized in [REDACTED] 2017, but has not provided a reasonable explanation for the [REDACTED], 2022, date on the decree. On appeal, she submits a new copy of the same document with a date of [REDACTED], 2017, instead of [REDACTED], 2022, and a letter from the [REDACTED] stating that this was “administrative error on the CTC copy of the decree nisi and absolute as the intended date is [REDACTED], 2017 and not [REDACTED] 2022. This was a clerical error on the part of the clerical staff who had assumed same to be a recent document.” However, the document submitted in response to the RFE is purportedly a copy of the original decree absolute signed and issued by the Assistant Chief Registrar in [REDACTED] 2017, not a separate document issued by the court on a later date.

The record does not contain a reasonable explanation for how a clerical error would result in the original 2017 decree erroneously being dated [REDACTED], 2022.

On appeal, the Petitioner has not overcome the Director's finding that the authenticity of the submitted court documentation has not been established. Therefore, without sufficient evidence of the legal termination of her first marriage, the Petitioner has not met her burden of establishing a qualifying marital relationship with a U.S. citizen for purposes of immigration classification under section 204(a)(1)(A)(iii) of the Act. Because the Petitioner did not demonstrate a qualifying marital relationship, she also necessarily cannot establish that she is eligible for immediate relative classification under VAWA based on such a relationship. The petition will therefore remain denied.

ORDER: The appeal is dismissed.