U.S. Citizenship and Immigration Services

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

In Re: 27258699

Date: JUN. 27, 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 entered a qualifying relationship with her U.S. citizen spouse. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner asserts that her marriage to her U.S. citizen spouse was valid under Texas law and should therefore qualify her as the spouse of a U.S. citizen under VAWA.

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(c)(2)(ii).

The Petitioner, a citizen and national of Nigeria, entered the United States in January 2017 as a non-immigrant visitor. The Petitioner married D-G-T-[1], a U.S. citizen, in [redacted] 2019 and filed the current VAWA petition based on that relationship. Prior to coming to the United States, the Petitioner was married to I-R- in Nigeria. As initial evidence of termination of her marriage to I-R- the Petitioner provided a Decree Nisi and Divorce Absolute from the High Court of [redacted] in Nigeria and a Texas Agreed Final Decree of Divorce dated after her marriage to D-G-T-. The Director determined

[1] We use initials to protect the privacy of individuals.

that the Decree Nisi and Divorce Absolute were not valid documents and issued a Notice of Intent to Deny (NOID). In response, the Petitioner stated that the court in [redacted] was unable to verify the documents as authentic or locate the records of her divorce. The Director denied the petition stating that at the time of the Petitioner's marriage to D-G-T- she was still married to her first spouse, making her current marriage invalid for immigrant classification under VAWA.

On appeal, the Petitioner argues that section 6.202 of the Texas Family Code Annotated (Tex. Fam. Code Ann.) renders her marriage to D-G-T- valid on the date her prior marriage was terminated in [redacted] 2020.[2] Section 6.202 of the Tex. Fam. Code Ann. states:

Marriage During Prior Marriage

(a) A marriage is void if entered into when either party has an existing marriage to another person that has not been dissolved by legal action or terminated by the death of the other spouse.

(b) The later marriage that is void under this section becomes valid when the prior marriage is dissolved if, after the date of the dissolution, the parties have lived together as husband and wife and represented themselves to others as being married.

Section 204(a)(1)(A)(iii)(II) of the Act and the corresponding regulation at 8 C.F.R. § 204.2(c)(1)(i) require the Petitioner to establish that she is 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 her relationship to D-G-T-. To determine whether the Petitioner's marriage to D-G-T- is valid, we look to "the law of the place of celebration of the marriage." *Matter of Arenas*, 15 I&N Dec. 174 (BIA 1975).

For the Petitioner's marriage to D-G-T- to be deemed valid, the Petitioner must establish that she lived together with D-G-T- "as husband and wife" and "they represented themselves to others as being married" after her divorce from I-R-. The critical inquiry, therefore, is whether the Petitioner resided with D-G-T- and represented to others that they were married after [redacted] 2020. To that end, we review the evidence in the record to determine if the Petitioner has met the requirements under section 6.202(b) of the Tex. Fam. Code Ann.

On the VAWA petition, the Petitioner indicated that she and D-G-T- resided with one another between August 2018 and August 2020. The Petitioner's personal statements provide details regarding the abusive actions of D-G-T- and some minimal details regarding their joint residence but does not provide any clear indication of the time period in which these events occurred. In support of her statement, the Petitioner provided a copy of her 2019 tax return and an April 2020 proposal to renew her lease. The lease renewal document does not appear to have been signed by the Petitioner or D-G-T- and the 2019 tax return was submitted in February 2020, before the termination of the Petitioner's marriage to I-R-. The Petitioner also provided documentary evidence from after the end of her claimed joint residence with I-R- including a renter's insurance policy renewal notice from October 2020 and car insurance documents from September and October 2020. We acknowledge that D-G-T- filed an I-130, Petition for Alien Relative, on behalf of the Petitioner in April 2020, however,

[2] The Petitioner does not argue that the Nigerian divorce documents should be considered as credible evidence of the termination of her marriage to I-R- on appeal.

the filing of a petition, alone, is insufficient to establish that D-G-T- and the Petitioner "lived together as husband and wife[,]" "represented themselves to others as being married" and, accordingly, met the requirements for their marriage to become valid under Texas law. The Petitioner also provided affidavits from S-D- and M-B- which indicate they knew of her relationship with D-G-T-. However, the affidavits do not provide specific dates and times in which the affiants interacted with the Petitioner and D-G-T- or provide sufficient detail to establish that she and D-G-T- resided with one another and held themselves out to be married during the specific period of time required under Texas law. Finally, we acknowledge that the Petitioner submitted an updated statement on appeal; however, it provides only a summary of facts pertinent to the Nigerian divorce documents and that her relationship with D-G-T- was "genuine." It does not provide any additional details regarding or insight into the Petitioner and D-G-T-'s relationship after [redacted] 2020. As a result, and contrary to the assertions on appeal, the Petitioner has not met her burden of proof to establish that she and D-G-T- resided with one another and held themselves out to be husband and wife between [redacted] 2020 and August 2020 as required for recognition of her marriage under Tex. Fam. Code Ann. section 6.202(b).

Since the Petitioner has not met her burden of proof in establishing that Texas law would recognize her marriage to D-G-T- as valid, she has also not established a qualifying relationship to a U.S. citizen spouse or eligibility for an immigrant visa as required under section 204(a)(1)(A)(iii) of the Act for immigrant classification under VAWA.

**ORDER:** The appeal is dismissed.