



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

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

In Re: 28209040

Date: OCT. 03, 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 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 record did not establish that the Petitioner was in a qualifying relationship with a United States citizen or lawful permanent resident. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

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).

The Petitioner, a citizen of Nigeria, filed the instant Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA) petition based upon his marriage to R-F-<sup>1</sup> in [ ] 2019. After reviewing the initial evidence, the Director issued a request for evidence (RFE) and subsequent notice of intent to deny (NOID) informing the Petitioner that the evidence he had submitted to establish that he had ended his prior marriage to S-O- was insufficient. Ultimately, the Director denied the VAWA petition, concluding that the record reflected that the Petitioner had submitted inauthentic documentation to establish the termination of his prior marriage. Specifically, the Director noted that the Decree Nisi and Decree Absolute submitted by the Petitioner were issued in the Igboere Judicial

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

Division in the High Court of [ ] which does not exist, and that the documents were signed by the Commissioner for Oaths, which the United States Consulate in [ ] Nigeria, indicated had no legal authority to sign divorce documents. The Director discussed the evidence provided by the Petitioner in response to the NOID which indicated that he was subject to a customary divorce and not a court divorce, but the Petitioner had not provided any customary divorce documents with his responses.

On appeal, the Petitioner provides a statement and additional evidence. In his statement, he contends that the submission of the prior Decree Nisi and Decree Absolute should not be considered, as he asked for them to be withdrawn from the record. The Petitioner states that these documents were obtained by friends in Nigeria who had hired a “newly barred” attorney to locate them on his behalf. He also submits new evidence, notably a document issued by the Customary Court of [ ] of Nigeria, which indicates a dissolution of his marriage to S-O- in [ ] 2014.

The record reflects that the Petitioner has submitted relevant evidence that the Director has not had the opportunity to consider, and we will remand the matter to the Director to consider this evidence in the first instance and determine whether the Petitioner has established that he was in a qualifying relationship and has satisfied the remaining eligibility requirements for immigrant classification under VAWA.

**ORDER:** The Director’s decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.