



U.S. Citizenship  
and Immigration  
Services

Non-Precedent Decision of the  
Administrative Appeals Office

In Re: 28587425

Date: OCTOBER 26, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse or Child of U.S. Citizen

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 Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), concluding that the Petitioner did not establish a qualifying marital relationship and his corresponding eligibility for immigrant classification under VAWA. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner contends that he has established eligibility for the benefit sought. 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 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 bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Although we must consider any credible evidence relevant to the VAWA petition, we determine, 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 record reflects that in April 2021, the Petitioner, a citizen of Nigeria, filed a VAWA petition. In November 2022, through a request for evidence (RFE), the Director informed the Petitioner that he submitted inconsistent evidence with respect to his claim that he legally terminated his first marriage prior to the inception of the instant marriage. Specifically, the Director explained that while the

Petitioner submitted a Decree Nisi of Dissolution (Decree Nisi) and Certificate of Decree Absolute (Decree Absolute) as evidence of the termination of his prior marriage,<sup>1</sup> the signature of the [redacted] State High Court official as well as the stamps on the decrees were inconsistent with exemplars provided to USCIS by the U.S. Consulate General in [redacted] Nigeria. In addition, the Director noted that a search for a divorce proceeding in the [redacted] State High Court's public database, using the suit number indicated on the decrees, yielded no results.<sup>2</sup>

In response to the RFE, the Petitioner submitted a letter, purportedly from the Associate Chief Registrar of the [redacted] State Judiciary confirming the authenticity of the decrees. After review of the record, the Director denied the petition. In doing so, the Director first noted that the authenticity of the divorce decrees was questionable. The Director further noted that the verification letter purportedly from the [redacted] State Judiciary was also inconsistent with the exemplars provided by the U.S. Consulate General in [redacted] and therefore, the letter was of little evidentiary value. The Director concluded that the Petitioner did not provide a Decree Nisi and Decree Absolute in accordance with the U.S. Department of State's Reciprocity Schedule for Nigeria (schedule), and therefore, the record did not contain sufficient evidence of the Petitioner's termination of his first marriage. Because the Petitioner did not establish that his first marriage was legally terminated, the Director concluded that he did not establish a qualifying relationship with a U.S. citizen, or that he is eligible for immigrant classification based on that qualifying relationship.

Upon de novo review, we adopt and affirm the Director's decision with the comments below. See *Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); see also *Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case). Here, the Petitioner has not submitted any evidence on appeal to resolve the ambiguity in the record regarding the authenticity of the evidence submitted to establish the legal termination of his first marriage. Instead, he asserts that the letter submitted as documentation from the [redacted] State Judiciary confirms the authenticity of the divorce decrees. He also submits a printout, purportedly from the [redacted] State Judiciary website, which includes a record of his divorce. However, as noted by the Director, the letter, submitted as evidence to resolve inconsistencies in the record, in fact, contains additional inconsistencies. Notably, the letter does not contain a signature or stamp conforming to the exemplars provided by the U.S. Consulate General in [redacted] Nigeria, and additionally, the official's title under the signature block contains formatting errors. As noted above, we determine, in our sole discretion, what evidence is credible and the weight to give to such evidence. Under this evidentiary

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<sup>1</sup> The Nigerian Matrimonial Causes Act of 1970 provides a strict divorce procedure for marriage contracted under the Marriage Act. "After filing the necessary papers in Court, there is a trial. At the end of the trial, the Court may grant or refuse the Divorce. Where the divorce is granted, the order is temporary and is called a Decree Nisi. There is a three-month period allowed in the event of reconciliation between the couple. At the end of the three months, if the parties have not reconciled, then the divorce decree will automatically become absolute, and a Decree Absolute is issued." <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Nigeria.html> (last visited October 17, 2023).

<sup>2</sup> The Director also determined that the issuance date of the Decree Absolute was inconsistent with the Nigerian Matrimonial Causes Act of 1970. However, a review of the record indicates that the Director mistakenly calculated the time between the Decree Nisi and the Decree Absolute by using the Petitioner's [redacted] 2016 marriage as the date of the Decree Nisi.

standard, the letter from the [ ] State Judiciary and other documentation submitted by the Petitioner are not sufficient to demonstrate the legal termination of his first marriage.

After a careful review of the entire record, including the arguments made on appeal, we conclude that the Petitioner has not established the legal termination of his 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, as required. Because the Petitioner has not demonstrated the requisite qualifying marital relationship, he also has not established that he is eligible for immediate relative classification based on such relationship.

ORDER: The appeal is dismissed.