



U.S. Citizenship  
and Immigration  
Services

Non-Precedent Decision of the  
Administrative Appeals Office

In Re: 22043968

Date: JULY 22, 2022

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 her corresponding eligibility for immigrant classification under VAWA. The matter is before us on appeal. On appeal, the Petitioner contends that she has established eligibility for the benefit sought. The Administrative Appeals Office (AAO) reviews 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 May 2019, the Petitioner, a citizen of Nigeria, filed a VAWA petition wherein she indicated that she had been married two times. In 2021, through a request for evidence (RFE), the Director informed the Petitioner that the record did not contain evidence establishing that her first marriage was legally terminated prior to the inception of the instant marriage. In response to the RFE, the Petitioner submitted an [redacted] 2014 Decree Nisi of Dissolution and a [redacted] 2015

Certificate of Decree Absolute, both issued by the High Court of [ ] State, Nigeria in the [ ]  
Judicial Division Holden at [ ]<sup>1</sup>

After review of the record, the Director denied the petition, determining that the authenticity of the Decree Nisi of Dissolution and Certificate of Decree Absolute was questionable. Specifically, the Director noted that the U.S. Department of State's Reciprocity Schedule for Nigeria (schedule)<sup>2</sup> outlines the various procedures for dissolving a marriage in Nigeria and the documentation submitted by the Petitioner relates to procedures for the dissolution of a registry marriage. The schedule states that registry marriages, regardless of whether they are federal or local registry, can only be dissolved through a High Court and also require a trial. At the end of the trial, the High Court may grant or refuse the divorce. If the divorce is granted, the order is temporary and is called a Decree Nisi, which is followed by a three-month waiting period to allow for possible reconciliation between the couple. At the end of the three months, if the parties have not reconciled, the divorce decree will automatically become absolute, and a Decree Absolute is issued. The Director highlighted that the Decree Nisi and Decree Absolute were not signed by a judge, as required by the schedule, but instead by a registrar. Further, a search conducted by the U.S. Consulate General in [ ] Nigeria, of all cases filed with the [ ] State Judiciary between September 2014 and February 2015, yielded no results of the Petitioner's divorce proceedings or evidence that her divorce was filed with the [ ] Judicial Division. The Director found that the Petitioner did not provide a Decree Nisi and Decree Absolute in accordance with the schedule, and therefore, the record did not contain sufficient evidence of the Petitioner's termination of her first marriage. 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 is eligible for immigrant classification based on that qualifying relationship.

On appeal, the Petitioner now asserts that she had a customary marriage. She contends that to dissolve a customary marriage, all that is required is the return of the bride price to the groom, which her family did after her former spouse initiated divorce proceedings.<sup>3</sup> In addition, she states that she and her former spouse were unaware that their marriage dissolution documentation was fraudulent and submits an affidavit from her spouse wherein he asserts that he attempted to locate the solicitor who handled their divorce to no avail.

After a careful review of the entire record, including the new evidence submitted on appeal, we find that the Petitioner has not established a qualifying marital relationship as she has not provided sufficient proof of the legal termination of her first marriage, as required. 8 C.F.R. § 204.2(c)(2)(ii). As discussed above, when filing the VAWA petition, the Petitioner indicated that her first marriage

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<sup>1</sup> Under the principle of comity, a foreign divorce will generally be recognized in the United States for immigration purposes if it was valid under the laws of the jurisdiction granting the divorce. *Matter of Luna*, 18 I&N Dec. 385, 386 (BIA 1983). When the petitioner relies on foreign law to establish eligibility, the application of the foreign law is a question of fact, which must be proved by the petitioner. *Matter of Kodwo*, 24 I&N Dec. 479, 482 (BIA 2008) (citing *Matter of Annang*, 14 I&N Dec. 502 (BIA 1973)).

<sup>2</sup> <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Nigeria.html> (last visited July 14, 2022).

<sup>3</sup> The schedule provides that there is no legal requirement in Nigeria that a marriage be dissolved by a court or that the divorce be registered or documented. Although the schedule does not mention the return of a bride price, it recognizes the return of the bride price to the groom or his family as a legal method of divorce. Although dissolution may occur without any written record, the schedule states that documentation of a customary divorce may include the filing of an affidavit by one or both parties with a Customary Court or issuance of a divorce decree by the court.

was a registry marriage which was dissolved by the High Court of [ ] State, Nigeria. The record did not contain any evidence of a customary marriage, and the Petitioner did not indicate that her marriage was a customary marriage until she was confronted with the inconsistencies contained in the court documentation submitted as evidence of the dissolution of a registry marriage. Further, while the Petitioner now claims that her marriage was dissolved upon the return of a bride price, in his affidavit submitted on appeal, the Petitioner's former spouse makes no mention of the return of a bride price.<sup>4</sup> For these reasons, the Petitioner has not overcome the Director's finding that questioned the authenticity of the submitted court documentation and her new claim recharacterizing her marriage as a customary marriage is not supported by a preponderance of the evidence, as required.

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.

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<sup>4</sup> In his affidavit, the Applicant's former spouse states, "I engaged the service of a solicitor in the person of [name omitted] to help me file the divorce petition in court against my wife [Petitioner] and to obtain Decree Absolute . . . That the solicitor brought a document purported to be a Decree Absolute. That having been given the said Decree Absolute I have since gotten on with my life with a new wife and children."