



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

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

In Re: 27062926

Date: AUG. 10, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Abused Spouse of U.S. Citizen)

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 Form I-360, Petition for Abused Spouse of U.S. Citizen (VAWA petition) on three separate grounds, concluding that the Petitioner did not establish that: 1) she has a qualifying relationship as the spouse of a U.S. citizen; 2) she resided with the U.S. citizen spouse; and 3) she was subjected to battery or extreme cruelty. The matter is now before us on appeal. On appeal, the Petitioner submits additional evidence and asserts her eligibility.

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.

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 the marriage with the U.S. citizen spouse in good faith and the petitioner was battered or subjected to extreme cruelty perpetrated by the qualifying relative. Section 204(a)(1)(A)(iii) of the Act; 8 C.F.R. § 204.2(c)(1). A petitioner must also show that they are 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). Among other things, a 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).

U.S. Citizenship and Immigration Services (USCIS) shall consider any credible evidence relevant to the VAWA petition; however, the definition of what evidence is credible and the weight that USCIS gives such evidence lies within USCIS' sole discretion. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The Petitioner is a citizen and national of Nigeria who last entered the United States in April 2016 as a non-immigrant visitor. The Petitioner married her second spouse, J-J-¹, a U.S. Citizen, in [] 2016. The Petitioner filed the current VAWA petition in March 2019 seeking classification as the abused spouse of a U.S. citizen. The Director denied the petition, concluding, in part,² that the Petitioner had not established the legal termination of her marriage to her first spouse, I-N-, and as a result, the Petitioner did not establish a qualifying spousal relationship to a U.S. citizen, based on her subsequent marriage to J-J-, as required under VAWA.

As evidence of the termination of her first marriage to I-N- in Nigeria, the Petitioner submitted a Decree Nisi and Divorce Absolute issued by the High Court in 2016. The Divorce Absolute indicates that the Petitioner's marriage to I-N- was dissolved in [] 2016. The Director determined that these documents from the High Court in Nigeria were fake and fraudulent as they were not consistent when compared to other known valid documents.³ Consequently, the Director determined that the Petitioner had not established the legal termination of her marriage to I-N- and as a result, could not establish that her subsequent marriage to J-J- was valid for VAWA purposes.

On appeal, the Petitioner submits a letter from the Assistant Chief Registrar of the High Court in [] certifying the accuracy of the 2016 divorce documents and a letter from a legal practitioner in Nigeria further clarifying the request to and response from the Assistant Chief Registrar of the High Court in []⁴ The letter from the Assistant Chief Registrar is material because it provides an explanation for the discrepancy in the case number of the divorce documents and confirmation that this particular document would not be available on the [] Judiciary website.

The record reflects that the Petitioner has provided new, material evidence that the Director has not had the opportunity to review. As such, we will remand the matter to the Director to consider this evidence in the first instance and determine whether the Petitioner has established the requisite qualifying spousal relationship to a U.S. citizen and otherwise established her eligibility 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.

¹ We use initials to protect the privacy of individuals.

² In denying the VAWA petition, the Director also concluded that the Petitioner did not establish that she resided with the U.S. citizen spouse or that she was subjected to battery or extreme cruelty. However, because the Director specifically determined that the Petitioner submitted fake and fraudulent documents which raise credibility concerns for the remaining evidence in the record, we will remand this matter to the Director to re-evaluate the evidence for the remaining eligibility criteria.

³ We note that the Director did not elaborate on this statement and did not provide the Petitioner with a detailed analysis of the inconsistencies on the submitted documents.

⁴ The Petitioner also submitted new evidence in response to the Director's conclusions of other eligibility criteria.