



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

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

In Re: 23675235

Date: FEB. 21, 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). On appeal, the Petitioner asserts his eligibility for VAWA classification. We review the questions in this matter de novo. *See 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

Petitioners who are spouses of U.S. citizens may self-petition for immigrant classification if they demonstrate they entered into marriage with the U.S. citizen in good faith and that, during the marriage, they were battered or subjected to extreme cruelty perpetrated by their U.S. citizen spouse. Section 204(a)(1)(A)(iii) of the Act; 8 C.F.R. § 204.2(c)(1)(i). 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).

Petitioners may submit any credible evidence relevant to the VAWA petition for us to consider; however, we determine, in our sole discretion, the credibility of and the weight to give such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). Petitioners bear the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The record reflects that in September 2017, the Petitioner, a citizen of Nigeria, filed a VAWA petition wherein he indicated that he had been married three times. In August 2019, through a request for evidence (RFE), the Director informed the Petitioner, among other things, that the record did not contain evidence establishing that his prior two marriages were legally terminated prior to the inception of the instant marriage. In response to the RFE, the Petitioner submitted a [redacted] 2015, Decree Nisi of Dissolution (Decree Nisi) and a [redacted] 2016, Certificate of Decree Absolute

(Decree Absolute) from O-O-,¹ his second spouse, issued by the High Court of [redacted] Nigeria in the [redacted] Judicial Division, and a Death Certificate from the Health Authority from the United Arab Emirates Emirate of [redacted] for his first spouse.

In August 2021, the Director issued a second RFE informing the Petitioner that the response to the August 2019 RFE was insufficient to establish his marriage to O-O- had been terminated, as the divorce decrees were signed by a registrar, who did not have the legal authority to sign such decrees according to Nigerian law. In response, the Petitioner submitted documents dated October 27, 2021, certifying that his marriage was terminated through a [redacted] 2015, Decree Nisi and a [redacted] [redacted] 2016, Decree Absolute by the High Court of [redacted] in the [redacted] Judicial Division, a letter from the [redacted] Judiciary, and a letter from the Petitioner's counsel in Nigeria to the Litigation Office of the High Court of [redacted]

The Director denied the petition, determining that the record contained significant discrepancies which called into question the validity of the documentation submitted to establish the Petitioner's divorce from O-O-. Specifically, the Director noted that the new documentation indicated that the Decree Nisi and Decree Absolute were issued by the [redacted] Judicial Division while the original Decree Nisi and Decree Absolute were issued by the [redacted] Judicial Division. Additionally, the Director noted that the original Decree Nisi and Decree Absolute were dated [redacted] 2015, and [redacted] 2016, while the new Decree Nisi and Decree Absolute were dated [redacted] 2015, and [redacted] 2016. Furthermore, the Director highlighted that the original Decree Nisi indicated the Petitioner's spouse had counsel, while the new Decree Nisi indicated that she did not. The Director further highlighted that the suit number and letter from the [redacted] State Judiciary indicated that the divorce was filed in 2013, while the original Decree Nisi and Decree Absolute indicated that it was filed in 2015. Finally, the Director noted that there was no record of the suit numbers on either set of divorce documents in the [redacted] Judiciary's online database, and that the Assistant Chief Registrar's stamp on the documents did not appear to be similar to genuine exemplars. The Director determined, in light of the inconsistencies between the divorce decrees submitted to USCIS and the other discrepancies noted, that USCIS could not determine the validity of the documents. Therefore, the Petitioner did not establish that his marriage to O-O- was legally terminated, and 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.

On appeal, the Petitioner submits a copy of a *Judgment* from the High Court of [redacted] in the [redacted] Judicial Division, a letter from the Acting Chief Registrar from the [redacted] Judiciary, a letter from the Marriage Registrar from the [redacted] Local Council, letters of support from his brother and friend,² and documentation concerning a motion for a *Civil Action Order* before the Superior Court of New Jersey [redacted] Division (Superior Court). He contends that he has provided USCIS "with an authenticated and verified divorce nisi, divorce absolute and divorce judgment from the Nigeria High Court duly signed by a Judge" in compliance with the reciprocity schedule of the U.S. Department of State Bureau of Consular Affairs. He also resubmits a letter from the [redacted] Judiciary and contends that it "clearly state[s] in the last paragraph that USCIS should 'please acknowledge receipt of the revised certificates.'" He maintains that the letter clarifies that his original

¹ Initials are used to protect the individual's privacy.

² The Petitioner submitted a payment receipt from the Federal Ministry of Foreign and Intergovernmental Affairs indicating that he had the aforementioned documents authenticated.

Decree Nisi and Decree Absolute are “null and void” and “do not qualify to be compared with the newly issued ones.”

After a careful review of the entire record, including the new evidence submitted on appeal, we conclude that the Petitioner has not established a qualifying marital relationship as he has not provided sufficient proof of the legal termination of his marriage to O-O-, as required. *See* 8 C.F.R. §§ 204.2(b)(2), (c)(2)(ii). In this case, the Petitioner has not resolved the significant discrepancies the Director noted regarding the divorce decrees, which call into question the validity of the documents. The letter from the [redacted] Judiciary states, “the Decree Nisi and Absolute attached to [the Petitioner’s] application are incorrect and not a true reflection of the Forms 35 & 41 issued by this Honourable court.” However, the letter does not address why the [redacted] Judiciary issued two sets of divorce decrees containing different dates, locations and parties present for the divorce proceedings. Further, the Petitioner does not explain why he submitted a decree from the [redacted] Judicial Division indicating he was divorced there on [redacted] 2016, if his divorce in fact took place at another court on another date. We further note that the Judgment the Petitioner submitted on appeal indicates he was granted a divorce in the [redacted] Judicial Division. This contradicts his claim that his divorce took place in the [redacted] Judicial Division, as well as the October 2021 letter stating that the decrees from the [redacted] Judicial Division were “incorrect and not a true reflection of the Forms 35 & 41” issued by the court. In addition, we acknowledge that the divorce suit number from the “revised” Decree Nisi and Decree Absolute is listed on the [redacted] Judiciary’s online database. However, the status of the divorce proceedings is unclear as the database states that it has been assigned a temporary suit number and is pending with a “Deputy Sheriff for Assignment” despite being filed in [redacted] 2013.³

The Petitioner also submits on appeal a motion to register a foreign judgment of divorce and “Civil Action Order” purportedly issued by the Superior Court of New Jersey.⁴ We note that the motion to the New Jersey Superior Court indicates that the Petitioner and O-O- had two children, born in [redacted] 2013 and [redacted] 2014. However, there is no mention of the children in the Judgment or either Decree Nisi or Decree Absolute—documents purportedly issued in [redacted] 2015 and [redacted] 2016, respectively, despite requirements under Nigerian law that the court issue an order concerning arrangements for the welfare of children born to the marriage.⁵

Accordingly, without sufficient evidence of the legal termination of his marriage to O-O-, we do not find that the Petitioner has met his burden of establishing a qualifying marital relationship with a U.S.

³ We acknowledge the Letter of Non-Impediment to Marry from the [redacted] Local Council stating that the Petitioner’s revised divorce decree was registered in the office. However, the Petitioner’s registration of the divorce decree does not establish the validity of the underlying decree. Moreover, the letter does not indicate when the Petitioner registered his divorce decree with the office.

⁴ We note that these documents are not certified by the court and contain several irregularities which raise concerns regarding their authenticity, including a separate, undated signature page, notarized by a Pennsylvania notary despite being issued by a court in New Jersey.

⁵ The divorce documents from the [redacted] Division submitted by the Petitioner indicate that Section 57, which applies where there are children of the marriage under the age of 16, is “Not Applicable.” Under section 58 of the Matrimonial Causes Act, a decree nisi does not become absolute unless the court has issued an order under Section 57 concerning arrangements for the welfare of the children born to the marriage.

citizen for purposes of immigrant classification under section 204(a)(1)(A)(iii) of the Act. Because the Petitioner did not demonstrate a qualifying marital relationship, he also did not establish that he is eligible for immediate relative classification based on such a relationship. The petition will therefore remain denied.

ORDER: The appeal is dismissed.