



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

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

In Re: 25802354

Date: APR. 21, 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. *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 petition, concluding that the record did not establish that the Petitioner had a qualifying relationship with her U.S. citizen spouse and married her U.S. citizen spouse in good faith. 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 dismiss the appeal.

I. LAW

A petitioner who is the spouse or former 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 they were 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 establish that they are eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act. Section 204(a)(1)(A)(iii)(II)(cc) of the Act. Petitioners are "encouraged to submit primary evidence whenever possible," but may submit any relevant, credible evidence in order to establish eligibility. 8 C.F.R. § 204.2(c)(2)(i). U.S. Citizenship and Immigration Services (USCIS) determines, in our sole discretion, what evidence is credible and the weight to give such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. ANALYSIS

The Petitioner, a native and citizen of Nigeria, filed her VAWA petition in February 2020 based on a claim of abuse by her U.S. citizen spouse, A-L-O-E-.¹ The Director denied the petition based on a determination that the Petitioner did not submit sufficient evidence to show that she was legally eligible to marry A-L-O-E- because her prior marriage in Nigeria had not been terminated. Accordingly, the Director concluded that the Petitioner had not established a qualifying relationship as A-L-O-E-'s spouse and corresponding eligibility to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act. Additionally, the Director determined that the Petitioner did not provide sufficient evidence that she married A-L-O-E- in good faith.

As evidence of the termination of her prior marriage, the Petitioner initially submitted with her VAWA petition a *Certificate of Divorce* (divorce certificate) between herself and her prior spouse, A-O-. The divorce certificate indicates that a Decree Nisi was issued by the High Court of [redacted] Nigeria, [redacted] Judicial Division, in [redacted] 2018 and that the divorce became absolute in [redacted] 2018. The Director indicated that the divorce certificate was insufficient to show the legal termination of the marriage between the Petitioner and A-O- because it was only an abstract, the suit number listed was not one commonly used in Nigerian divorce decrees, the divorce did not appear in a search of the [redacted] Judiciary website, and the document indicated it was from the [redacted] Judicial Division,² which does not exist.

In response to a request for evidence (RFE) from the Director, the Petitioner submitted an affidavit stating that her marriage to A-O- was customary, conducted by payment of a dowry; she and A-O- never had a church wedding or civil ceremony; and the divorce was dissolved in [redacted] 2017 by return of the dowry. She claimed that her abusive U.S. citizen spouse, A-L-O-E-, obtained civil court documents of her divorce without her consent because he said she needed them to process her immigration paperwork. In support of her claim that her marriage to A-O- was dissolved through customary means, she provided a *Judgment* from the Customary Court of [redacted] of Nigeria at [redacted] (customary judgment). The *Judgment* reflects that the marriage was contracted in [redacted] 2013 and dissolved in [redacted] 2017 after the Petitioner filed a petition for its termination in Customary Court. The Director acknowledged the Petitioner's arguments but found inconsistencies within the customary judgment, including among others that the 2017 date of the customary divorce differed from the 2018 date shown on the previously submitted divorce certificate, the judgment did not contain the signatures of the Petitioner and A-O-, and portions of the certification stamps were illegible or appeared altered.

On appeal, the Petitioner reiterates that she and A-O- did not have a church wedding or civil ceremony and that their marriage occurred pursuant to the customary laws in Nigeria, and that it was subsequently dissolved in 2017 by return of the dowry and through proceedings in the Customary Court. With regard to the authenticity of the customary judgment, she states that she "does not have any control over the qualify of the documents issued by" the Customary Court. In support of her claims, she submits articles regarding the dissolution of customary marriage in Nigeria and a 2022

¹ We use initials to protect identities.

² The Director erred in this determination, and we withdraw it. The divorce certificate does not state that it was issued by the [redacted] Judicial Division. Instead, it states it was issued in the [redacted] Judicial Division, and that the "marriage was contracted at [redacted] Marriage Registry, [redacted] 2013.

Letter of Authenticity from the Customary Court of [redacted] of Nigeria at [redacted] confirming the customary marriage dissolution and stating that the customary judgment is authentic despite “alphabet appearances . . . due to the condition of the Court stamp pad.”

Although the Petitioner submits evidence on appeal regarding the dissolution of her customary marriage to A-O-, she does not explain the discrepancies between the customary judgment and the divorce certificate she submitted with her VAWA petition. As the Director noted, the divorce certificate states that the Petitioner and A-O- were divorced in the High Court of [redacted] Judicial Division, in [redacted] 2018, but the customary judgment states their marriage was dissolved under customary law before the Customary Court of [redacted] 2017.³ Furthermore, the divorce certificate indicates that A-O- was the petitioner in the proceedings before the civil court and the decree was issued in his favor, while the customary judgment states the Petitioner initiated marriage dissolution proceedings against A-O-, who was the respondent.

We acknowledge the assertion in the Petitioner’s RFE response to the Director that “the civil divorce document noted in the RFE was not procured by [her] or with [her] consent” but that A-L-O-E- obtained it to support her immigration paperwork. However, the Petitioner herself submitted the divorce certificate as supporting evidence with her VAWA petition and identified it in the list of evidence as a copy of her “Nigerian divorce certificate terminating a prior marriage.” The Petitioner has not addressed the discrepancies between the divorce certificate and the customary judgment, nor has she explained why she submitted the divorce certificate to support her VAWA petition when she now claims she never had a civil or church marriage that could have been terminated through divorce in a civil court. Therefore, the record lacks sufficient consistent, credible evidence to show that the Petitioner’s marriage to A-O- in Nigeria was legally terminated prior to her marriage to A-L-O-E- in the United States. Accordingly, the Petitioner has not established that she has a qualifying relationship with a U.S. citizen spouse and is eligible for immigrant classification based on that relationship, as section 204(a)(1)(A)(iii)(II) of the Act requires.

Since the identified basis for denial is dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve the Petitioner’s appellate arguments regarding whether she entered into marriage with her U.S. citizen spouse in good faith. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.

³ We also note that, among other concerns, A-O-’s name is misspelled in the divorce certificate, the first letter of “January” is not capitalized, and there are differences in font types and sizes throughout the document.