



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

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

In Re: 32600348

Date: SEPT. 09, 2024

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 his U.S. citizen spouse and was eligible for immigrant classification based on such a relationship. The Petitioner filed a motion to reopen and reconsider the matter, and the Director subsequently dismissed the motion, again concluding that the Petitioner did not establish that he had a qualifying relationship with his U.S. citizen spouse and was eligible for immigrant classification based on such a qualifying relationship. 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; 8 C.F.R. § 204.2(c)(1)(i). 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. In order to establish a qualifying relationship with the abusive U.S. citizen spouse, the petitioner must be legally married to the abusive spouse and submit a marriage certificate and proof of the termination of all prior marriages for the petitioner and the abuser. 8 C.F.R. § 204.2(c)(1)(i), (2)(ii). 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, married his former U.S. citizen spouse, M-M-,¹ in Ohio in 2015 and filed his VAWA petition in [] 2017² based on a claim of abuse by M-M-. The Director denied the VAWA petition, concluding that the Petitioner did not show that he was legally eligible to marry M-M- in 2015 because he did not demonstrate that his prior marriage in Nigeria had been legally terminated in 2014 and, as a consequence, had not established a qualifying relationship as M-M-'s spouse and corresponding eligibility to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act.

The Petitioner claimed on his VAWA petition that he had been married twice and provided the following documents that he claimed show that his prior marriage to a Nigerian citizen named A-O-A- had been legally terminated on [] 2014.

- (1) A Decree Nisi of Dissolution of Marriage (Decree Nisi) between himself and A-O-A-. The Decree Nisi lists Suit No. [] 2013, was purportedly issued by the High Court of Lagos State, [] Judicial Division in Nigeria and was signed by the Assistant Chief Registrar [] on [] 2014. This Decree Nisi states that the Petitioner's divorce from A-O-A- would become absolute three months after the date of the Decree Nisi.
- (2) A Certificate of Decree Nisi Having Become Absolute (Decree Absolute) dated [] 2017. The Decree Absolute lists Suit No. [] 2013, was purportedly issued by the High Court of Lagos State, [] Judicial Division and signed by the Assistant Chief Registrar [] and states that the [] 2014 Decree Nisi dissolving the marriage between the Petitioner and A-O-A- became absolute on [] 2014.

However, the Petitioner's administrative record also includes a previously filed 2016 Form I-485, Application to Register Permanent Residence or Adjust Status (Form I-485), for which the Petitioner had claimed a different date on which his marriage terminated ([] 2014) and included the following evidence in support of that claim:³

- (3) A November 2015 Form G-325A, Biographic Information, on which the Petitioner stated that his prior marriage to A-O-A terminated on [] 2014.⁴

¹ Names withheld to protect the individuals' identities

² They divorced in early [] 2017, shortly before the Petitioner filed the VAWA petition.

³ In a May 2023 notice of intent to deny (NOID) the VAWA petition, the Director incorrectly referred to these Decrees Nisi and Absolute as having been provided with the VAWA petition.

⁴ The Form G-325A states that severe penalties are provided by law for knowingly and willfully falsifying or concealing a material fact.

- (4) A different [] 2014 Decree Nisi of Dissolution of Marriage (Decree Nisi) between himself and A-O-A-, purportedly issued by the High Court of Lagos State, [] Judicial Division in Nigeria and stating that the Petitioner's divorce from A-O-A- would become absolute three months after the date of the Decree Nisi. This Decree Nisi lists a different Suit No. []/2014 and was signed by a different Registrar [] on [] 2014 (the same date that Registrar [] signed the Decree Nisi for Suit No. []/2013).
- (5) A different Certificate of Decree Nisi Having Become Absolute (Decree Absolute) dated [] 2014. This Decree Absolute lists Suit No. []/2014, is purportedly issued by the High Court of Lagos State, [] Judicial Division and signed by the Registrar [] and states that the [] 2014 Decree Nisi dissolving the marriage between the Petitioner and A-O-A- became absolute on [] 2014.
- (6) A January 17, 2017 letter from the High Court of Lagos State, [] Judicial Division, signed by the Assistant Chief Registrar [] who stated that a search resulted in a record of dissolution of marriage relating to Suit No. []/2013 (for the Petitioner's prior marriage to A-O-A-), and that Suit No. []/2014 (listed on the above divorce documents submitted in the same 2016 Form I-485 proceedings) "relates to another party."⁵

The Director issued a notice of intent to deny (NOID) the VAWA petition, advising the Petitioner that he had provided contradictory documentation regarding the legal termination of his marriage to A-O-A- in Nigeria, and that an online search of the Lagos State High Court's public database of litigation cases did not yield results confirming the legal termination of the Petitioner's marriage under either of the suit numbers. In response, the Petitioner provided a second, June 2023 letter from the Assistant Chief Registrar to the High Court of Lagos State, [] Judicial Division, stating that the []/2014 Decree Nisi and []/2014 Decree Absolute (issued in February 2017) for Suit No. []/2013 "is hereby confirmed in this office." The Assistant Chief Registrar also stated that although the information for Suit No. []/2013 was not formerly on an official website "due to system upgrading," the case "can now be verified on our official website www.lagosjudiciary.gov.ng/search.aspx." However, the Director found that relevant documentation of the legal termination of the Petitioner's Nigerian marriage still was not available after a search of the Nigerian judiciary website and concluded that, based on the unresolved discrepancies between the two sets of divorce documents, the Petitioner had not established the validity of either set. As a consequence, the Director denied the VAWA petition, finding that the Petitioner had not established the legal termination of his marriage to A-O-A- in Nigeria prior to his 2015 marriage to M-M-.

On a subsequent motion to reopen and reconsider the Director's decision, the Petitioner provided an August 2, 2023 letter from the High Court of Lagos State, [] Judicial Division, stating that the Petitioner's Decree Absolute was issued on [] 2014, that information for Suit No. []/2013 was correct, and asserting that a "check can be obtained on Lagos State Judicial

⁵ The Petitioner provided this letter in response to the Director's notice that a November 2016 letter from the High Court of Lagos State, [] Judicial Division, advised that the Petitioner's documents for Suit No. []/2014 were not genuine.

official website www.lagosjudiciary.gov.ng/search/asp/www.lagosstatejudicia.org.ng.” Also, the Petitioner asserted that he had found documents for both Suit No. [REDACTED] 2013 and Suit No. [REDACTED] 2014 on the Nigerian judiciary website and included a screenshot that, he claimed, showed the availability of documents for both suit numbers on August 7, 2023. The Director dismissed the combined motion on the same grounds stated in the denial, noting that a new search of the Nigerian judicial database still did not reveal any documentation of the termination of the Petitioner’s marriage in Nigeria, and indicating that the divorce documents provided did not appear to conform to Nigerian law.⁶

On appeal, the Petitioner again claims that the documents from Suit No. [REDACTED] 2013 are valid and demonstrate the legal termination of his marriage in Nigeria. He asserts that the Director’s decision to deny the VAWA petition and the subsequent combined motions based on consideration of the contradictory evidence are an abuse of discretion because the Nigerian court had explained in writing that documents relating to Suit No. [REDACTED] 2014 are erroneous. The Petitioner also states that the Director’s denial is a violation of due process clause of the Fifth Amendment, and that the Director has inappropriately raised new grounds for concluding that the Petitioner’s documents are not valid without proper notice. The Petitioner further contends that the Director engaged in an incorrect interpretation of Nigeria divorce law, whereas he claims that he has shown by a preponderance of the evidence that he is divorced and that his Nigerian divorce documents for Suit No. [REDACTED] 2013 satisfy the requirements in the U.S. State Department visa reciprocity schedule for divorce evidence from Nigeria when the underlying union is a registry marriage. (See <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Nigeria.html> (discussing documentary evidence of the legal dissolution of a marriage in Nigeria, including Decree Nisi and corresponding Decree Absolute when the marriage was a registry marriage.) Finally, the Petitioner acknowledges that on motion to the Director he had provided a screenshot from August 2023 that he claimed was evidence that online records for Suit No. [REDACTED] 2013 and Suit No. [REDACTED] 2014 existed, and he now contends that his Nigerian divorce documents for Suit No. [REDACTED] 2013 were recently available on the Nigerian judicial database, providing a screenshot for that suit number that he claims existed as of January 16, 2024. However, he also states on appeal that the Nigerian judicial database currently does not reflect any information to show that his marriage terminated and provides a February 2024 letter from an attorney in Nigeria explaining, among other things, that the Petitioner’s divorce documents are not available on the judicial website in Nigeria because the Lagos State judiciary only commenced its electronic filing system in 2014, after the Applicant’s divorce proceedings were filed in 2013.

Here, the Petitioner has made contradictory claims regarding the legal termination of his marriage. In the context of his VAWA petition, he claimed that his marriage terminated on [REDACTED] 2014; however, in the context of his previously filed Form I-485 adjustment application, he claimed that his marriage terminated on [REDACTED] 2014. In addition, the Petitioner provided contradictory evidence regarding the

⁶ As the petition is not otherwise approvable for the reasons set forth in this decision, we reserve the issue of whether or not the Petitioner’s documents conform to Nigerian law. Our reservation of the issue is not a stipulation that the Petitioner has overcome the additional basis for denial and should not be construed as such. Rather, there is no constructive purpose to addressing the additional ground here, because as shown below, it would not change the outcome of the appeal. 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).

legal termination of his prior marriage in the form of two sets of Decrees Nisi and Decrees Absolute from Nigeria that list different suit numbers, have different signatures, and reflect different dates on which the divorce became absolute (i.e., [REDACTED] 2014 vs. [REDACTED] 2014). Although the Petitioner provided letters from the High Court of Lagos State, [REDACTED] Judicial Division, stating that the Decree Nisi and related Decree Absolute for Suit No. [REDACTED]/2013 are genuine, the letters simply state that these documents relate to another case without explaining why the High Court issued decrees in the Petitioner's and his former spouse's names under for a different Suit No. [REDACTED]/2014 in the first place.

Moreover, the Petitioner has continued to make inconsistent claims regarding the availability of his divorce documents on the Nigerian judicial website, undermining their evidentiary value. In response to the Director's NOID, he provided a letter June 2023 letter from the High Court stating that the documents for Suit No. [REDACTED]/2013 were available online and which included the court's directions for accessing the relevant judicial website. Similarly, on motion to the Director, the Petitioner asserted that his divorce documents are available on the Nigerian judicial website and provided an August 2023 screenshot that he claimed was evidence of the existence of records for Suit No. [REDACTED]/2013 and Suit No. [REDACTED]/2014 in the High Court's database. On appeal, the Petitioner again states that he found records for Suit No. [REDACTED]/2013 in January 2024 and provides a screenshot of his search result. However, as the Director noted, a search of the online database does not disclose any divorce records for the Petitioner. Moreover, contrary to his assertions, the June 2023 letter from the High Court, and the two screenshots purporting to reflect his divorce documents as being available on the Nigerian judicial website, he now provides a letter from his attorney in Nigeria who asserts that the Petitioner's divorce records are *not* available through the online database because his divorce proceedings commenced in 2013 before the electronic filing system became available in 2014. The Petitioner has not resolved the inconsistency between his attorney's statement that the Petitioner's divorce records are not available online and the other evidence, including the June 2023 letter from the High Court in Nigeria and the Petitioner's screenshots of the database, depicting his divorce records as being available online. Therefore, on appeal, the Petitioner has made additional claims regarding the unavailability of evidence that are contradicted by his prior claims and the evidence submitted below and on appeal, including his most recent claim that his divorce records were available online as recently as January 2024. It remains that the letters from the High Court in Nigeria and the Petitioner's Nigerian attorney do not resolve the inconsistencies between the Petitioner's claims and his evidence and therefore do not establish the validity of the documents for the Decree Nisi and Decree Absolute for either Suit No. [REDACTED]/2013 or Suit No. [REDACTED]/2014.

Based on the Petitioner's contradictory evidence, he has not established that his prior marriage in Nigeria was legally terminated in 2014 before he married his U.S. citizen spouse in 2015, as claimed. Consequently, the Petitioner has not met his burden of proof to show that he has a qualifying marital relationship with a U.S. citizen spouse and his corresponding eligibility for immediate relative classification based on that relationship pursuant to sections 204(a)(1)(A)(iii)(II)(aa) and (cc) of the Act. For these reasons, he is not eligible for VAWA immigrant classification, and the petition may not be approved.

ORDER: The appeal is dismissed.