



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

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

In Re: 32219047

Date: APR. 17, 2024

Appeal of Vermont Service Center Decision

Form I-360, Petition for 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 petition, concluding that the record did not establish that the Petitioner was in a qualifying relationship with her U.S. citizen spouse because she could not establish the termination of her prior marriage in Nigeria. Thereafter, the Director dismissed a combined motion to reopen and reconsider, and a subsequent motion to reconsider. 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 of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in relevant part, that they have a qualifying relationship with their U.S. citizen spouse and 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), based on that relationship. Section 204(a)(1)(A)(iii)(II) of the Act; 8 C.F.R. § 204.2(c)(1). Among other things, a petitioner must submit evidence of the qualifying marital 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(c)(2)(ii). Petitioners are “encouraged to submit primary evidence whenever possible,” but may submit any relevant, credible evidence 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 citizen and national of Nigeria, last entered the United States in May 2017 on a B2 visa. She married R-D-M-,¹ a U.S. citizen, in June 2017 and filed her VAWA petition in October 2019 based on claimed abuse in that marriage. The Petitioner previously married G-L-I- in Nigeria and claims the marriage was terminated on [REDACTED] 2017. The Director determined that the documents provided as evidence of termination of the Petitioner's prior marriage were not credible and therefore not sufficient to establish that she was free to marry R-D-M-. Accordingly, the Director denied the VAWA petition based on the conclusion that the Petitioner had not shown a qualifying relationship with her U.S. citizen spouse and corresponding eligibility for immigrant classification.

In September 2021, the Director issued a request for evidence (RFE) seeking proof of the termination of all of the Petitioner's prior marriage(s); evidence that she was subject to battery and/or extreme cruelty committed by R-D-M-; and evidence that the Petitioner was a person of good moral character. In March 2022, the Petitioner responded to the RFE with a copy of the [REDACTED] 2021 Final Decree of Divorce for the Petitioner and R-D-M- issued by the District Court in [REDACTED] Texas showing that her marriage was dissolved on the ground of insupportability. To demonstrate the termination of her marriage to G-L-I-, the Petitioner submitted a copy of a Decree Nisi of Dissolution of Marriage (Decree Nisi) issued by the High Court of Lagos State, [REDACTED] bearing a seal, stamp and the signature of Assistant Chief Registrar, Litigation of [REDACTED] listing suit number [REDACTED] 2015. The Decree Nisi indicated that the Petitioner and G-L-I- were married on [REDACTED] 2000, and a petition to dissolve the marriage was decided on [REDACTED] 2017. The Decree Nisi indicated that the decree would become absolute three months from the date of issuance. The Petitioner also submitted a copy of a Certificate of Decree Absolute (Decree Absolute) issued by the High Court of Lagos State, [REDACTED] also bearing suit number [REDACTED] 2015, indicating that the Decree Nisi became absolute on [REDACTED] 2017. The Decree Absolute, dated [REDACTED] 2021, bore a seal, stamp, and the signature of Assistant Chief Registrar, Litigation of [REDACTED]. The Petitioner also submitted an online print out of the Lagos Judiciary Information System (JIS) showing the filing details of suit number [REDACTED] 2015.²

In August 2023, the Director denied the VAWA petition determining that the Petitioner did not establish that she had a qualifying relationship with a U.S. citizen and was eligible for immigrant classification under section 203(a)(2)(A)(i) of the Act based on that qualifying relationship. The Director acknowledged the Decree Nisi, Decree Absolute and the JIS. The Director noted that the U.S. Consulate General in Lagos, Nigeria provided USCIS with information related to the Decree Nisi and the Decree Absolute issued by federal courts in Nigeria. The Director stated that this information included who had authority to sign "federal court" marriage documents in Nigeria, the proper suit number, format, and information regarding the issuing post. The Director noted that there were several issues with the documents including the suit number and the signatory leading to the conclusion that they were fraudulent and would not be afforded any evidentiary weight. But we note

¹ We use initials to protect privacy.

² To establish battery and/or extreme cruelty, the Petitioner submitted her personal statement, a supporting affidavit, and her medical report. For the good moral character criterion, she submitted a United Kingdom police report showing "no trace" of a criminal record, and a Texas Department of Public Safety criminal history report showing "no record" on file.

that the Director did not extrapolate on the specific defects in the Decree Nisi and Decree Absolute. Regarding the JIS, the Director determined that it offered no information to confirm the validity of the divorce documents and was therefore insufficient to support the termination of the marriage.

Thereafter, in October 2023, the Director dismissed a combined motion to reopen and reconsider, determining that the Petitioner's personal statement and supporting affidavit merely reiterated that the divorce documents were genuine and signed by the appropriate authority; the re-submitted divorce documents bearing the counterfeit stamp of [redacted] (also known as [redacted]) were already found to be fraudulent. The Director stated that the Settlement and Custody Agreement provided no evidence demonstrating it was officiated or signed by a civil authority or an individual authorized to carry out the agreement and it did not support the legitimacy of the divorce documents. The Director noted that the Petitioner's lawyer in Nigeria informed her that the suit number complied with what the court had on record and could be found online per the JIS. But the Director determined that the JIS indicated the case was "newly filed" and the status of the case was "Assigned to Deputy Sheriff/Case in Assignments Judge/CJ" even though the divorce was concluded over 6 years ago. The Director reasoned that the case may have been added to the JIS in response to the denial of the VAWA petition. In addition, the Director acknowledged the Petitioner's brief but found the arguments unpersuasive.

With her subsequent motion to reconsider, the Petitioner submitted a brief, a letter from her lawyer in Nigeria requesting verification of the authenticity of the Decree Nisi and Decree Absolute from the Assistant Chief Registrar of the High Court of Lagos State and a letter in reply purportedly signed by [redacted] Assistant Chief Registrar of the High Court of Lagos State confirming the authenticity of the divorce proceeding. In December 2023, the Director dismissed the motion to reconsider after noting that the accompanying brief did not demonstrate that the decision was based on an incorrect application of law or policy; and the Director was not persuaded by the supporting evidence.

We review this case de novo. The Petitioner has not established by a preponderance of the evidence that her marriage to G-L-I- in Nigeria was legally terminated prior to her marriage to R-D-M- in the United States. Therefore, she has not overcome the Director's grounds for denial.

On appeal, the Petitioner argues that the Director erred in denying the VAWA petition. She argues that under Nigerian law, the Decree Nisi and Decree Absolute are valid even though they have errors, and she cites Nigerian caselaw to support her argument. She contends that the full faith and credit clause in Article IV, Section I of the U.S. Constitution, Texas state law, and BIA precedent require the Director to accept the Decree Nisi and Decree Absolute under the principle of comity. 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). She states the Director violated "Congressional law and intent," USCIS rules, and established rules and practices requiring an awareness of the law of the state or country where the divorce took place. And she claims that the Director is asking for "persuasive and satisfying evidence" of the termination of the marriage and did not apply the correct standard of evidentiary review.

At the outset, we note that petitioners are not required to submit primary or specific types of evidence and that USCIS must consider any relevant, credible evidence. 8 C.F.R. § 204.2(c)(2)(i). Here, the

Petitioner contends that she has submitted sufficient evidence to meet her burden of proof and has provided documentation consistent with the Matrimonial Causes Act of Nigeria. She states that the divorce was verified on the Lagos State online portal as reflected in the JIS. She argues that the Decree Nisi and Decree Absolute were properly signed by an assistant chief registrar, and that “registrar” means chief registrar, deputy registrar, or registrar of the court. She argues that an administrative act may be conducted on behalf of a registrar by another officer of the court or by a clerk in the office of the registrar or of such an officer. Overall, she cites Nigerian Court of Appeals caselaw for the premise that errors or mistakes in the form or contents of a document originating from the court cannot be treated as inauthentic, and that “[t]o prove false information in a document requires more than pointing out errors or mistakes or incongruities or discrepancies in the document or asserting that the document is forged on account of the errors without more.” *Adekele v. Raheem & Ors* (2019) LPERLR-48729 (CA). However, this case is inapplicable to the Petitioner’s situation because it concerned a political candidate’s falsified educational qualifications and forged certificates. The court determined that these forged certificates were immaterial to the candidate’s qualifications for public office, and thus the candidate could not be disqualified as a result of these false documents. Here however, the termination of the Petitioner’s prior marriage is at the crux of whether her marriage to R-D-M- is valid. The falsified educational certificates at *id.*, did not confer or change the candidate’s legal status or eligibility but the Petitioner’s proffered Decree Nisi and Decree Absolute sought to do just that. The Petitioner points to the guidance from the U.S. Department of State’s Reciprocity Schedule in support of her contention that the documents are valid for immigration purposes. *See* <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Nigeria.html> (last accessed April 5, 2024). But nowhere does the Reciprocity Schedule state that irregular documents are acceptable for immigration purposes. The Reciprocity Schedule provides that there are multiple versions of these documents, but they are typically typed in Times New Roman font. Here, the Decree Nisi and Decree Absolute are not typed in Times New Roman font. Preponderance of the evidence standard requires that the evidence demonstrates that the petitioner’s claim is “probably true,” where the determination of “truth” is made based on the factual circumstances of each individual case. *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989). In evaluating the evidence, *Matter of E-M-* also stated that “[t]ruth is to be determined not by the quantity of evidence alone but by its quality.” *Id.* Here, the quality of the Petitioner’s evidence raises questions about her credibility and her eligibility for VAWA benefits. Notably comity “. . . is neither a matter of absolute obligation, on the one hand, nor of mere courtesy and good will, upon the other.” *Hilton v. Guyot*, 159 U.S. 113, 163-64 (1895). Courts will generally recognize and enforce the judgments of foreign courts if (1) the foreign court had personal and subject matter jurisdiction; (2) the defendant in the foreign action had notice and opportunity to be heard; (3) the judgment was not obtained by fraud; and (4) enforcement will not contravene important public policy. Here, the Director determined that based on information obtained from the U.S. Consulate in Lagos, the Decree Nisi and Decree Absolute were not authentic. Therefore, comity does not require the Director to accept these documents where there is fraud and doing so would violate public policy.

The Petitioner’s burden is to show eligibility by a preponderance of the evidence and not by any higher burden. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We must consider, and have considered, all relevant, credible evidence relating to the Petitioner’s claim. However, USCIS determines, 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). The discrepancies in this case are material to the Petitioner’s eligibility and she has not submitted sufficient credible evidence to meet her burden.

USCIS must provide an opportunity to rebut derogatory information before a decision is issued. 8 C.F.R. § 103.2(b)(16)(i). *See Hassan v. Chertoff*, 593 F.3d 785, 787 (9th Cir. 2010) (concluding that 8 C.F.R. § 103.2(b)(16)(i) requires only that the government make a petitioner aware of the derogatory information used against them and provide an opportunity to explain; “[t]he regulation . . . requires no more of the government.”). Here, the Petitioner received an RFE and was afforded 87 days to explain the discrepancies and submit additional evidence. Moreover, the Petitioner filed two motions with additional evidence seeking a reversal of the Director’s decision. The Director acknowledged and addressed all the evidence in the record. For a registry marriage in Nigeria, the only legal method of divorce is through the High Court process as explained in the Reciprocity Schedule. Therefore, the Petitioner must submit a Decree Nisi and Decree Absolute issued by the High Court. The Petitioner proffers that [redacted], or [redacted] is the Assistant Chief Registrar (Litigation) with the High Court in Lagos and is authorized to sign divorce documents. We acknowledge the Petitioner’s argument that a registrar may issue a Decree Nisi and Decree Absolute. However, the U.S. Consulate in Lagos and the Department of State advise that a registrar is not the official authorized to sign divorce documents from a High Court in Nigeria. In evaluating the Decree Nisi and Decree Absolute, the Director appropriately relied on the expertise of the U.S. Consulate in Lagos and the guidance provided in the Reciprocity Schedule. USCIS is entitled to question the authenticity of any foreign document of record that is relied upon to establish a familial relationship. *See Matter of Richard*, 18 I&N Dec. 208 (BIA 1982).

In the RFE, the subsequent denial and the dismissal of the motions, the Director notified the Petitioner that the format and contents of the suit number, signature, sand stamp on the documents she submitted were not consistent with information from the U.S. Consulate in Lagos, Nigeria. As stated, the Petitioner bears the burden of proof to demonstrate her eligibility for VAWA classification by a preponderance of the evidence, and she has not done so here.

III. CONCLUSION

The Petitioner has not established by a preponderance of the evidence that she has a qualifying relationship with a U.S. citizen spouse and is eligible for classification as an immediate relative. Accordingly, she has not met the eligibility criteria for VAWA.

ORDER: The appeal is dismissed.