



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

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

In Re: 21561744

Date: AUG. 3, 2022

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), and the matter is before us on appeal. The Administrative Appeals Office (AAO) reviews 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, among other requirements, 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).

Evidence of a good faith marriage may include documents showing that one spouse has been listed as the other's spouse on insurance policies, property leases, income tax forms, or bank accounts; evidence regarding their courtship, wedding ceremony, shared residence, and experiences; birth certificates of any children born during the marriage; police, medical, or court documents providing information about the relationship; affidavits from individuals with personal knowledge of the relationship; and any other credible evidence. 8 C.F.R. § 204.2(c)(2)(vii).

The burden of proof is on the petitioner to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Although we must consider any credible evidence relevant to the VAWA petition, we determine, 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).

II. ANALYSIS

The Petitioner, a native and citizen of Yemen, entered the United States in March 2008 on a visitor visa. She filed the instant VAWA petition in March 2017 based on a claim of battery and extreme

cruelty by her U.S. citizen spouse, F-P-.¹ With her VAWA petition, the Petitioner submitted a personal statement, a third-party affidavit, marriage certificate, a lease agreement, a bank account statement, printouts of text messages and e-mail correspondence between herself and F-P-, and miscellaneous family photographs.

The Director issued a request for evidence (RFE) seeking additional evidence that the Petitioner entered into marriage with F-P- in good faith. In the RFE, the Director explained that the Petitioner's personal statement was not sufficiently probative of her courtship, marriage, or intent in entering into marriage with F-P-. The Director emphasized that the third-party affidavit was a pre-printed document and the affiant did not provide specific details. The Director further explained that the text messages and e-mail correspondence provided limited insight into the dynamics of the Petitioner's relationship and were not sufficient to demonstrate that she resided with her spouse or entered into a good faith marriage with him. Additionally, the Director noted that the lease agreement and bank account statement were in the Petitioner's spouse's name only, and the marriage certificate and photos were not sufficient to establish her intent into entering into marriage.

In response to the RFE, the Petitioner submitted previously submitted evidence, an updated personal statement, and additional third-party affidavits. The Director denied the VAWA petition, concluding that the Petitioner did not submit sufficient evidence to establish that she married F-P- in good faith. The Director stressed that the Petitioner's assertion that "she entered into the marriage with the hope for a good life" and the additional third-party affidavits were vague and not sufficient to establish that she entered into the marriage with F-P- in good faith. On appeal, the Petitioner contends that the factual record and the "any credible evidence" standard compels the conclusion that she met her burden of establishing her good faith marriage and shared residence. She also contends that the Director's request for primary evidence of a good faith marriage and shared residence largely out of reach for domestic violence survivors, was inappropriate.

As a preliminary matter, we note that the "any credible evidence" language in the statute and regulation relates to an evidentiary standard and the type of evidence that the agency shall consider, not the applicable burden and standard of proof. A VAWA petitioner bears the burden of establishing eligibility, and generally must do so by a preponderance of the evidence. *Chawathe*, 25 I&N Dec. at 375. Furthermore, while a petitioner may submit any credible evidence for us to consider to satisfy this burden, we determine, in our sole discretion, the weight given to such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

The Petitioner contends that her previously submitted evidence was sufficient to establish that she entered into marriage with F-P- in good faith, but we find that the Director considered the previously submitted evidence and adequately explained why there was insufficient evidence of a good faith marriage. Specifically, the Director explained that the Petitioner's personal statement did not reflect emotional ties, commingling of resources or shared financial responsibilities typically associated with a bona fide marriage. Regarding the third-party affidavits, the Director also explained that they did not provide any further description of the Petitioner's courtship, marriage or relationship with F-P- or substantive information regarding the date, location or details of the wedding ceremony.

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

The Petitioner's statement provide very little detail regarding her intent in marrying F-P, other than to say that she met F-P- through a mutual friend in February 2015, had a great relationship which included travelling together, and eventually got married in [REDACTED] 2015. Her statement largely focuses on the abuse she claims she suffered from F-P- and his former spouse including an assault which resulted in F-P-'s conviction for domestic violence in [REDACTED] 2016. In their affidavits, S-H- and A-S- confirmed that they knew the Petitioner, and F-P- and believed that their relationship was genuine. In a letter of support, B-E- stated that she has known the Petitioner for ten years and that she has always been a "a person of moral and integrity." She also confirmed the Petitioner's and F-P-'s "genuine and loving relationship." In another letter of support, W-M- recalled that she met the Petitioner at a mosque in [REDACTED] and that F-P- dropped her off and picked her up from the mosque. However, these letters do not speak to the Petitioner's relationship with F-P- prior to her marriage or her intentions in marrying F-P-, and we agree that the Petitioner's statements and those of the third parties do not contain sufficient, probative details regarding their courtship, intentions in marrying, marriage ceremony, shared experiences, and routines so as to establish that the Petitioner entered into the marriage in good faith.

On appeal, the Petitioner submits additional evidence regarding her marriage to F-P-. In an updated letter, B-E- states that she met F-P- on two occasions in 2015 prior to the Petitioner's wedding. B-E- recounts that she did not attend the Petitioner's wedding, and that she did not speak to the Petitioner for some time after the wedding because she changed her phone number. The Petitioner's friend, S-K-, recalled that he helped the Petitioner meet F-P- through K-, a Muslim matchmaker. K- told him that F-P- was interested in marrying a Muslim woman and S-K- immediately thought of the Petitioner, and he states that F-P- and the Petitioner admired each other from their first date. He explains that while he did not attend the wedding, he spoke to the Petitioner occasionally as she traveled throughout the country with F-P-. Finally, S-K-'s spouse also submitted a letter in which she confirmed information contained in S-K-'s statement. She stated that she did not attend the Petitioner's wedding, but spoke with her occasionally about F-P-'s abusive behavior. However, the affidavits from the Petitioner's friends indicate they had minimal contact with her or F-P- leading up to their wedding, did not attend the wedding, and had very little contact with them after their wedding.

The Petitioner also submits a copy of her insurance cards from New York State and the [REDACTED] of Nevada issued her name. We note however, that the insurance cards only indicate that the Petitioner had health insurance when she lived in those states. Similarly, the Petitioner's American Express Serve card indicates that she was issued a credit card in her name, which was valid until 2020. However, neither the insurance cards nor the credit card, without more, are probative evidence that the Petitioner and F-P- commingled resources or shared financial responsibilities during their marriage. The record also contains e-mail correspondence dated in November 2015 that indicates that the Petitioner and F-P- communicated about an upcoming trip to the mountains and discussed their daily activities and F-P-'s dinner and movie preferences for the evening. Similarly, in December 2015 and January 2016, F-P- e-mailed the Petitioner about his daily activities, work-related travel plans, and the financial status of the household. However, this limited correspondence does not reflect a shared residence or shared experiences—two factors associated with a good faith marriage. Instead, the correspondence indicates that the Petitioner mostly lived apart from F-P- during their marriage and communicated with him via e-mail and did not regularly share daily routines with F-P-.

Based on a review of the record, we find that the Petitioner has not demonstrated, by a preponderance of the evidence that she married F-P- in good faith. *See Matter of Chawathe*, 25 I&N Dec. at 375-76 (describing the petitioner's burden under the preponderance of the evidence standard and explaining that in determining whether a petitioner has satisfied their burden, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence).

III. CONCLUSION

The Petitioner has not overcome the basis of the Director's decision on appeal and therefore has not demonstrated her eligibility for VAWA classification.

ORDER: The appeal is dismissed.