U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 18200869

Date: AUG. 15, 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)(l)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(l)(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). The matter is now before us on appeal. On appeal, the Petitioner submits additional evidence and asserts that he has established eligibility for the benefit sought. The Administrative Appeals Office reviews 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 VAWA self-petitioner must establish, among other requirements, that they entered into the qualifying marriage to the U.S. citizen spouse in good faith and not for the primary purpose of circumventing the immigration laws. Section 204(a)(1)(A)(iii)(I)(aa) of the Act; 8 C.F.R. § 204.2(c)(1)(ix). 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)(i), (vii).

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 (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 citizen of Canada, married his U.S. citizen spouse, K-G-,[1] in [redacted] 2012. K-G- filed multiple Forms I-130, Petition for Alien Relative, on his behalf, and associated Forms I-485, Application to Register Permanent Residence or Adjust Status, which were all denied. The record reflects the denials were based on derogatory information obtained during a 2013 site visit by USCIS officers to the Petitioner's claimed residence with K-G- that indicated they never intended to establish a life together, contradictory statements provided during USCIS interviews, and DNA test reports that disproved K-G-'s claim that the Petitioner was the father of her child. In 2017, the Board of Immigration Appeals (Board) dismissed K-G-'s appeal of the most recent Form I-130 denial and indicated that K-G- did not meet her burden to show the marriage was not entered into for the primary purpose of evading immigration laws.

The Petitioner filed the VAWA petition in September 2017. In support of his VAWA petition and in response to a request for evidence from the Director, the Petitioner submitted personal and third-party affidavits, bills and bank statements, insurance cards, a marriage certificate, photographs, and two psychological evaluations. The Director denied the petition, determining, in pertinent part, that the submitted evidence was not sufficient to establish that he entered into marriage with K-G- in good faith. The Director indicated that the Petitioner's personal and third-party affidavits were vague, lacked probative details, and did not provide insight into the dynamics of their marriage. The Director further found that while the submitted photographs of the Petitioner and K-G- indicated they spent time together, they did not establish his intentions for entering into marriage; the car insurance cards reflected that the Petitioner and K-G- were insured but the record did not include the insurance policy or evidence that joint payments were applied to the policy; and the bank statements and bills were mostly in the Petitioner's name only and did not demonstrate commingled assets and shared financial responsibilities. The Director also found that the Petitioner had not demonstrated he was subjected to battery or extreme cruelty during the marriage. The Director's decision describes the facts and the procedural history of the Petitioner's case in great detail, and we incorporate it by reference here.

On appeal, the Petitioner submits additional evidence, to include but not limited to, personal and third-party affidavits; articles discussing autism and the increased risk of abuse; court, school, and correspondence records; and copies of previously submitted evidence. He asserts that the record establishes he entered into marriage with K-G- in good faith and he was subjected to battery or extreme cruelty. The Petitioner contends that the Director erred by requiring him to show that he commingled finances with K-G- in order to establish that his marriage was in good faith, failing to address evidence that it was only K-G- who was acting in bad faith when she married the Petitioner, and applying a subjective standard of marriage.

Upon *de novo* review, we adopt and affirm the Director's decision that the Petitioner has not established by a preponderance of the evidence that he married K-G- in good faith. *See, e.g., Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994) (noting that the "independent review authority" of the Board does not preclude adopting or affirming the decision below "in whole or in part, when [the Board is] in agreement with the reasoning and result of that decision"); *see also Chen v. INS*, 87 F.3d 5, 7-8 (1st Cir. 1996) (noting that, "[a]s a general proposition, if a reviewing tribunal decides that the

[1] We use initials to protect identities.

facts and evaluative judgments prescinding from them have been adequately confronted and correctly resolved by" the decision below, "then the tribunal is free to simply adopt those findings" provided the tribunal's order reflects individualized attention to the case").

The Petitioner's arguments and additional evidence on appeal are not sufficient, standing alone or viewed in totality with the underlying record, to meet his burden of establishing he married K-G- in good faith. The Petitioner's updated and previously submitted personal affidavits address his courtship with K-G- in a general manner, describing how he met her in 2012 and liked her demeanor because she had a loving and caring personality; they spent a lot of time together watching movies, taking family trips, and celebrating holidays and birthdays with the family; and he developed a close relationship with K-G-'s son. The Petitioner's affidavits offer minimal insight into the relationship prior to his marriage and do not contain sufficient detail demonstrating his intent in entering marriage with K-G-. The third-party affidavits, including those provided on appeal, are similarly vague regarding the Petitioner's courtship to K-G- and do not provide detailed and specific descriptions of shared experiences and interactions between them. Instead, these affidavits predominantly focus on the problems that developed in the relationship and the claimed abuse by K-G-. In whole, these affidavits do not sufficiently demonstrate the Petitioner's intention in entering marriage or the *bona fides* of his marital relationship. We further concur with the Director that the supporting documentation submitted by the Petitioner, to include bank statements; bills; court, school, and correspondence records; photographs; and car insurance documents, captured limited interactions between the Petitioner and K-G- and reflected minimal transactions related to shared financial responsibilities associated with a *bona fide* marriage.

Based on the foregoing, the Petitioner has not submitted probative evidence to establish by a preponderance of the evidence that he entered into a good faith marriage with K-G-. *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). Therefore, he has not established his eligibility for immigrant classification under VAWA.

The Director further concluded that the Petitioner had not met his burden of establishing that he was subjected to battery or extreme cruelty during the marriage, as required under section 204(a)(1)(A)(iii)(I)(bb) of the Act. Since the identified basis for the denial is dispositive of this matter, we decline to reach and hereby reserve the Petitioner's arguments regarding whether he has also demonstrated that he was subjected to battery or extreme cruelty. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting that "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.