



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

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

In Re: 22492349

Date: AUG. 23, 2022

Motion on Administrative Appeals Office 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 (the Director) denied the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), determining that the Petitioner did not establish by clear and convincing evidence that she entered her marriage in good faith and not to circumvent immigration laws. We dismissed her subsequent appeal, and the matter is now before us on a combined motion to reopen and reconsider. Upon review, we will dismiss the motions.

**I. LAW**

A motion to reopen must state new facts to be proved and be supported by affidavits or other evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or USCIS policy. 8 C.F.R. § 103.5(a)(3). The motion to reconsider must also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. *Id.*

Petitioners who are spouses of U.S. citizens may self-petition for immigrant classification if they demonstrate 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). The Act bars approval of a VAWA petition if the petitioner entered into the marriage giving rise to the petition while in removal proceedings, unless the petitioner establishes by clear and convincing evidence that the marriage was entered into in good faith and not solely for immigration purposes. *See* sections 204(g) and 245(e)(3) of the Act, 8 U.S.C. §§ 1154(g) and 1255(e)(3) (outlining the restriction on, and exception to, marriages entered into while in removal proceedings); *see also* 8 C.F.R. § 204.2(c)(1)(iv) (providing that a self-petitioner “is required to comply with the provisions of . . . section 204(g) of the Act”).

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 Mexico, married her U.S. citizen spouse, K-D-R-,<sup>1</sup> in [ ] 2016, while the Petitioner was in removal proceedings. The Petitioner filed her VAWA petition in April 2018. The Director denied the petition, concluding the Petitioner had not met her burden of establishing by clear and convincing evidence that she entered into marriage with K-D-R- in good faith, as required by section 204(g) since the Petitioner married her spouse while in removal proceedings.

In our prior decision, incorporated here by reference, we adopted and affirmed the Director's decision. The evidence and arguments submitted with her appeal were not sufficient, standing alone or viewed in totality with the underlying record, to meet her burden. Our prior decision determined that, although the Petitioner contended that she was unable to provide any further evidence and there was no indication that the submitted evidence was not credible, she did not dispute the Director's findings that her personal statements were vague and general regarding her initial courtship with K-D-R-. Further, the Petitioner did not address the Director's finding that her own personal statements only referenced two events in her relationship with K-D-R- prior to proposal and marriage: when she took her granddaughter to K-D-R-'s home to watch a movie and the next day, when K-D-R- went to her brother's home to ask permission to marry the Petitioner. Similarly, the Petitioner did not dispute the Director's findings that letters of support submitted by her sister-in-law, daughter, and brother were brief and did not demonstrate the Petitioner's intent in entering into marriage as they did not provide relevant, specific details. Rather, the Petitioner asserted that the letters from her sister-in-law and daughter should not have been expected to provide such details as her daughter was not aware of details of their relationship, and K-D-R- was not allowed to visit the Petitioner's home prior to marriage. As such, we determined that in accordance with section 204(g) of the Act, the Petitioner's did not establish by *clear and convincing evidence* that she entered into marriage with K-D-R- in good faith.

In support of her motion to reopen, the Petitioner submits new evidence, including an evaluation from a psychotherapist, C-F-M-, an updated personal statement, a new statement from her daughter, A-N-A-A-, statements from M-T-H- and M-T-M-, a statement from O-R-, a text message from P-B-, who is K-D-R-'s mother, a statement from K-D-R-, additional photographs, a copy of a life insurance application from [ ] Life Insurance Company dated January 2022, and a [ ] Energy bill issued to K-D-R- in January 2022.

In reviewing the evidence, the evaluation from C-F-M- is provided limited weight. This evaluation does not address the Petitioner's intentions in marrying K-D-R-, and instead discusses her psychological state during and after the marriage took place, taking into account the alleged abuse.

---

<sup>1</sup> We use initials to protect the identity of individuals.

The Petitioner's updated statement once again provides limited insight and information when reviewing her previous statements included in the record. She provides similar details regarding how K-D-R- initially approached her in August 2016 while she was working and asked for her phone number. The Petitioner further recounted how K-D-R- would come to the restaurant she was working at every day to talk to her, and that they went out a few times. K-D-R- proposed to her in October 2016 and they got married in [REDACTED] 2016. Following their wedding, they visited K-D-R-'s family in [REDACTED] and then moved in together. The remainder of the Petitioner's statement recounts how their relationship changed over time, and how K-D-R- changed and became abusive toward her. However, we determine that the statement continues to lack specific, relevant detail regarding their courtship and relationship prior to the marriage which would be sufficient to meet the required clear and convincing evidentiary standard.

The new statements from the Petitioner's daughter and others familiar with her similarly lack sufficient relevant detail. Regarding their courtship, the statement from A-N-A-A-, the Petitioner's daughter, states that, "[K-D-R-] used to visit the restaurant constantly until one day he went to the house with [the Petitioner] with a bouquet of flowers. That day [the Petitioner] asked [her] to take care of R- [A-N-A-A-'s daughter] . . . That day [the Petitioner and K-D-R-] went out to eat and they used to go out frequently, with [her] daughter and [her]. One day [the Petitioner, K-D-R-, A-N-A-A-, and R-] went out to breakfast the four of [them] and [they] had a good time." The statement continues after this to discuss the relationship after the marriage took place, and how K-D-R- changed and abused the Petitioner. The statement from M-T-H- similarly lacks details of knowledge of the Petitioner's relationship and intent in entering into a marriage with K-D-R- and discusses how K-D-R- was rude and was mentally abusing the Petitioner by calling her names. The statement from O-R- only states that the Petitioner said she was going to get married and that O-R- was happy for her. O-R- stated that she "didn't see [the Petitioner] very often but when [she] saw [the Petitioner] she and her husband seemed fine." The statement from M-T-M-, the Petitioner's niece, recounted that she met K-D-R- when he went to ask for permission to marry the Petitioner from the Petitioner's mother, and that everyone was happy for the Petitioner. The statement does not provide details or insight into the relationship prior to the marriage, or the Petitioner's intentions in entering into the marriage.

The Petitioner submitted a text message from P-B-, which states, "[the Petitioner] is [her] daughter in law. [The Petitioner] is married to [K-D-R-]. They married [REDACTED] 2016]. [The Petitioner] is part of our family. [P-B- is] writing this letter to let you know that [she] will answer any and all questions," but fails to provide any insight into the relationship between the Petitioner and K-D-R-. The Petitioner also submitted a letter from K-D-R-. He recalls that he met the Petitioner in September 2016 at the restaurant where she was working. He states that he "dined there on several occasions" and that when he met the Petitioner "the attraction was immediate" and that he began to frequent the restaurant more often. K-D-R- states that they began dating, and he took the Petitioner to meet his parents in [REDACTED] and that he met her family. However, the letter fails to provide specific, relevant details regarding the Petitioner's intentions in entering into the marriage or their courtship or relationship prior to the marriage.

The Petitioner also submitted additional photographs. The photographs in the record depict the Petitioner and K-D-R-'s wedding ceremony and the couple together on various occasions, but the Petitioner does not describe their wedding ceremony or the events that gave rise to the photographs in detail, who took the photographs, or any other personal details that would better shed light on her

good-faith marriage to K-D-R-. Finally, the Petitioner submitted a copy of a life insurance application completed by K-D-R- in January 2022, and a bill from [ ] Energy issued in January 2022. The Petitioner explains that the life insurance application was an effort from K-D-R- to reconcile their relationship, but that she was still unsure if she had a future with him. We note that the application was completed with the Petitioner's information, but it is unclear if the application was ever submitted, or that such a policy now exists. Additionally, the [ ] Energy bill was issued in K-D-R-'s name, at the address where he resides separately from the Petitioner, and is therefore provided limited weight.

As stated, a motion to reopen must be based on new facts which are supported by documentary evidence. *See* 8 C.F.R. § 103.5(a)(2). We interpret "new facts" to mean those that are relevant to the issues raised on motion and that have not been previously submitted in the proceeding, which includes the original petition. In our review of the new evidence submitted, we determine that the Petitioner has not submitted new facts which would overcome our previous decision that she failed to establish, by clear and convincing evidence, that she entered into the marriage with K-D-R- in good faith.

Finally, while the Petitioner marked on the Form I-290B, Notice of Appeal or Motion, that she was filing a combined motion to reopen and reconsider, she does not cite a specific error in law or policy in our previous decision, nor does she cite pertinent precedent or adopted decisions that establish our prior decision was in error in support of her motion to reconsider. Therefore, the Petitioner has not established that our prior decision was based on an incorrect application of law or USCIS policy.

**ORDER:** The motion to reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.