



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

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

In Re: 23609842

Date: DEC. 19, 2022

Motion on Administrative Appeals Office Decision

Form I-360, Petition for Abused Spouse of U.S. Citizen or Lawful Permanent Resident

The Petitioner seeks immigrant classification under the Violence Against Women Act (VAWA) provisions codified in the Immigration and Nationality Act (the Act) at section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii), as an abused spouse of a U.S. citizen. The Director of the Vermont Service Center denied the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), concluding that the Petitioner did not establish he entered into marriage with his U.S. citizen spouse in good faith. On appeal, we determined that the Petitioner did not overcome the basis for the Director's denial. The Petitioner has filed a motion to reopen and reconsider our decision. 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). Upon review, we will dismiss the motions.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and establishes eligibility for the benefit sought.

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). 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).

The Petitioner married his U.S. citizen spouse, N-G-S-,¹ in 2017 and filed his VAWA petition in November 2018. The Director denied the VAWA petition, concluding the Petitioner had not demonstrated he entered into marriage with N-G-S- in good faith. The record before the Director included, but was not limited to, the Petitioner's statement; third-party statements from N-K-, S-D-,

¹ Initials are used to protect the identity of this individual.

M-G-D-, P-V-K-, and K-R-V-; photographs; joint bank statements from September 2017 to July 2018; a September 2017 life insurance policy; and joint gas, electricity, and cable bills.

In our prior decision on appeal, which we incorporate here, we adopted and affirmed the Director's decision while addressing deficiencies in the evidence related to the Petitioner's entrance into a good faith marriage. The Petitioner asserted on appeal that his life insurance policy and joint bank and utility statements with N-G-S- were clear indications of commingled finances and of his attempt to protect N-G-S in the event of his death. However, the Petitioner did not address the Director's determinations that he did not demonstrate his life insurance policy continued to be maintained through payment of premiums, the photographs did not demonstrate the Petitioner's intention in marrying N-G-S-, and their names on a bank account and utilities were found insufficient to demonstrate commingled financial responsibilities. Furthermore, the Director noted their joint bank account did not contain payments for shared financial responsibilities, such as utilities, and the Petitioner did not address this on appeal. On motion, the Petitioner does not address any of these evidentiary deficiencies.

Additionally, the Director mentioned discrepancies between third-party statements and the Petitioner's initial statement related to the timeline of his relationship with N-G-S-. The Petitioner initially stated he met N-G-S- in or about March 2017, whereas K-R-V-, P-V-K-, and M-G-D- respectively stated they met N-G-S- through the Petitioner around January or February 2017, February 2017, and March 2017, with M-G-D- stating the Petitioner and N-G-S- were dating for around five to six months before he met them. The Petitioner submitted an updated statement on appeal, claiming that his initial statement contained a clerical error and he actually met N-G-S in March 2016 rather than March 2017. However, the Petitioner's initial statement reflects that after meeting N-G-S- in March 2017, they began dating a few days later, and he married her in [] 2017 after dating for a few months. We determined that the Petitioner's updated statement on appeal, in which he claimed to have met N-G-S- in March 2016, created further discrepancies in the record, as he would have been dating N-G-S- for over a year rather than a few months at the time of their marriage.

On motion, the Petitioner submits another statement in which he claims that he met N-G-S- in March 2016, she agreed to go on a date with him after a few days, and they met on and off as friends until they started dating in the end of September or early October 2016. As such, the Petitioner claims they were dating for 9 to 10 months before getting married in [] 2017. The Petitioner's statement on motion does not overcome the discrepancies in the record related to the timeline of his relationship with N-G-S-. The Petitioner initially stated before the Director that he dated N-G-S- for a few months, then indicated to us on appeal that he was dating her for over a year, and now states that he was dating her for 9 to 10 months.

We have reviewed the submitted evidence, and do not find it sufficient to overcome the evidentiary deficiencies and discrepancies in the record. The Petitioner has not submitted new evidence sufficient to establish by a preponderance of the evidence that he entered into marriage with his U.S. citizen spouse in good faith. Therefore, he has not met the requirements for a motion to reopen.

Furthermore, the Petitioner has not established that our prior decision was based on an incorrect application of law or policy. Therefore, he has not met the requirements for a motion to reconsider.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.