



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

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

In Re: 15979856

Date: FEB. 9, 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), concluding that the Petitioner did not establish that she married her U.S. citizen spouse in good faith or resided with him, as required. The matter is now before us on appeal. Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

A petitioner who is the spouse or former spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in part, that they entered into the marriage with the U.S. citizen spouse in good faith and the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii) of the Act. Good faith requires that a petitioner has not "entered into the marriage to the abuser for the primary purpose of circumventing the immigration laws." 8 C.F.R. § 204.2(c)(1)(ix). Evidence that the marriage was entered into in good faith may include, but is not limited to: shared insurance policies, property leases, income tax forms, and bank accounts; testimony or other evidence regarding the couple's courtship, wedding ceremony, shared residence, and experiences together; birth certificates of children born to the relationship; police, medical, or court documents providing information about the relationship; or affidavits of persons with personal knowledge of the relationship. 8 C.F.R. § 204.2(c)(2)(vii).

In addition, among other things, a petitioner must establish that they have resided with the abusive spouse. Section 204(a)(1)(A)(iii)(II)(dd) of the Act; 8 C.F.R. § 204.2(c)(1)(i)(D). The Act defines a residence as a person's general abode, which means their "principal, actual dwelling place in fact, without regard to intent." Section 101(a)(33) of the Act, 8 U.S.C. § 1101(a)(33). Although there is no requirement that a VAWA petitioner reside with their abuser for any particular length of time, a petitioner must show that they did, in fact, reside together. Section 204(a)(1)(A)(iii)(II)(dd) of the Act; 8 C.F.R. § 204.2(c)(1)(v). Evidence of joint residence may include employment, school, or medical records; documents relating to housing, such as deeds, mortgages, rental records, or utility receipts;

birth certificates of children; insurance policies; or any other credible evidence. 8 C.F.R. § 204.2(c)(2)(iii).

The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Petitioners are “encouraged to submit primary evidence whenever possible,” but may submit any relevant, credible evidence in order to establish eligibility. 8 C.F.R. § 204.2(c)(2)(i). 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).

## II. ANALYSIS

The Petitioner filed the instant VAWA petition in June 2019, submitting, in part, a copy of her marriage certificate, evidence she had sought a restraining order against her spouse, V-T-<sup>1</sup>, letters from friends, copies of photographs, a copy of a bill, a letter from a case worker, and tax documents. The Director issued a Notice of Intent to Deny (NOID) the petition. She found that the Petitioner had previously filed a VAWA petition which was denied in March 2019, that a subsequent motion to reopen and reconsider was also dismissed, and that the instant VAWA petition was supported only by copies of the evidence the Petitioner had submitted for her previous petition. The Director indicated her intent to deny the petition for the same reasons the previous petition had been denied, namely, for failing to establish that the Petitioner married her spouse in good faith, that they resided together, or the Petitioner’s good moral character, as required. The Director specified that, as discussed in the previous denial decision: the photographs the Petitioner submitted did not contain a detailed explanation of who or what was present in the photographs; the utility bill submitted was only in the Petitioner’s name without mention of her spouse and did not demonstrate that the Petitioner and her spouse shared financial responsibilities or commingled resources; although the Petitioner and V-T- may have had a joint bank account, there was no indication who contributed to or used the account as there was very little activity present on the statement; the affidavits that were submitted contained identical statements, casting doubt on their authenticity and credibility; and a Certificate of Conduct for the Petitioner and an arrest report did not cover the entire three-year period prior to the filing of that petition. The Director provided the Petitioner the opportunity to submit evidence that she married her spouse in good faith and that they resided together, and that she is a person of good moral character.

In response to the NOID, the Petitioner submitted a sworn statement and re-submitted evidence already in the record. According to her statement, the Petitioner attested that she met V-T- at a friend’s house in the Dominican Republic in February 2011. According to the Petitioner, they “exchanged phone numbers Talk after 5 days of meeting and . . . went out while he was on vacation.” She stated that she traveled to New York in August 2011 to meet him, he proposed to her in 2014, and they married in 2016. She then described that in August 2016, he started to change and “that [was] when the first assault began.”

The Director denied the petition, concluding that the Petitioner did not establish she entered into the marriage in good faith or that she resided with V-T-. The Director stated that the evidence that had previously been submitted had already been discussed at length and would not be repeated again.

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<sup>1</sup> We use initials to protect the identities of the individuals in this case.

Regarding the Petitioner's sworn statement, the Director found that it primarily addressed the alleged abuse the Petitioner experienced and lacked probative details with respect to entering the marriage with V-T- in good faith or residing with him. The Director found the Petitioner's statements were vague and that there were no details of the couple's claimed joint residence, their courtship, intentions, or milestones in their married life.

On appeal, the Petitioner submits a brief, arguing that it is an abuse of discretion for the government to deny her Form I-601, Application for Waiver of Grounds of Inadmissibility. She contends it would be a denial of due process, extremely unfair, and is unduly burdensome for her to submit a new petition when USCIS "has all the information within its system to check the file and adjudicate the matter."

We adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Chen v. INS*, 87 F.3d 5, 7-8 (1st Cir. 1996) ("we join eight of our sister circuits in ruling that the Board [of Immigration Appeals] need not write at length merely to repeat the IJ's [Immigration Judge's] findings of fact and his reasons for denying the requested relief, but, rather, having given individualized consideration to a particular case, may simply state that it affirms the IJ's decision for the reasons set forth in that decision."). The Petitioner's brief addresses a different application and does not address the deficiencies in the record noted by the Director. There is no new evidence submitted on appeal. The Petitioner has not met her burden of establishing that she married her U.S. citizen spouse in good faith or resided with him, as required.<sup>2</sup>

**ORDER:** The appeal is dismissed.

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<sup>2</sup> Although the Director found in the NOID that the Petitioner did not establish her good moral character, the denial decision did not address this issue. We need not reach the issue of good moral character and, therefore, reserve it. Our reservation of this issue is not a stipulation that the Petitioner overcame this alternate ground of denial and should not be construed as such. Rather, there is no constructive purpose to addressing it because it cannot change the outcome of the appeal. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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).