U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 16029230

Date: FEB. 18, 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 (the Director) denied the Form 1-360, 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 he entered her marriage in good faith and not to circumvent immigration laws. On appeal, the Petitioner asserts his eligibility for VAWA classification.

We review the questions in this matter *de novo*. *See Matter of Christo's Inc*., 26 l&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 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"). Clear and convincing evidence is that which, while not "not necessarily conclusive, ... will produce in the mind ... a firm belief or conviction, or ... that degree of proof which is more than a preponderance but less than beyond a reasonable doubt." *Matter of Carrubba*, 11 I&N Dec. 914, 917 (BIA 1966).

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)(l)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. ANALYSIS

The Petitioner, a native and citizen of Jordan, married his U.S. citizen spouse, S-B-M-[1] on [redacted] 2010, while the Petitioner was in removal proceedings and one day after the termination of his marriage to R-M-S-K-. The Petitioner filed his VAWA petition in August 2018. The Director denied the petition, concluding the Petitioner had not met his burden of establishing by clear and convincing evidence that he entered into marriage with S-B-M- in good faith, as required by section 204(g) since the Petitioner married his spouse while in removal proceedings.

The Petitioner contends the record evidence before the Director should have been deemed sufficient to approve his VAWA petition. The Petitioner asserts that weight should have been given to his own personal statement detailing his marriage to S-B-M- and her abusive behaviors, the statements proved by third parties, and evidence of their joint financial accounts. The record includes a divorce decree for the Petitioner and S-B-M- from [redacted] 2016. The record reflects the Petitioner and S-B-M- were married from [redacted] 2010 to [redacted] 2016. The record also includes a tenant financial statement for the Petitioner and S-B-M- for residency between September 2012 and May 2013, car insurance coverage for the Petitioner and S-B-M- for six months in 2013, 2013 joint tax return documents, a personal statement from the Petitioner, a school emergency contact form, photocopies of credit cards with a [redacted] 2010 statement, a joint utility bill from October 2010, joint phone bills from three months in 2010, a joint bank statement reflecting purchases and withdrawals in the month of May 2011, four letters of support from individuals who know the Petitioner, and a warrant for the arrest of S-B-M-.

In denying the petition, the Director found that the joint financial documentation submitted by the Petitioner, including bank statements and a photocopy of credit cards, established only that the Petitioner and S-B-M- held a joint account and did not include transactions that demonstrate shared financial responsibilities associated with a *bona fide* marriage that spanned over six years. In addressing the joint bill statements submitted by the Petitioner, the Director found that this evidence represented minimal household comingling, considering the length of the marriage. The Director also found that a fax from [redacted] School listing the Petitioner under emergency contacts as a "soon to be stepdad" to S-B-M-'s child was not sufficient to demonstrate that the Petitioner entered into his marriage with S-B-M- in good faith. As stated, the Petitioner argues on appeal that sufficient weight was not given to his submitted evidence.

We acknowledge that the Director did not meaningfully address the four letters of support in the record. But upon review of the totality of the record, we agree with the Director that the Petitioner has not established by clear and convincing evidence that he entered into marriage with S-B-M- in good faith. The Petitioner's personal statement addresses his initial courtship with S-B-M- in a vague and general manner. He states that he met S-B-M- while he was working at a gas station, they began dating and fell in love, then he proposed. The statement generally indicates the Petitioner was happy

[1] Initials are used to protect the privacy of this individual.

living with S-B-M- and her son for three years, and they bought a house and went on trips during this time. However, the description of these periods does not contain detail or include information demonstrating the Petitioner's intent in entering marriage with S-B-M-. Rather, the Petitioner's personal statement includes detail only insofar as it relates to claimed abuse but offers little insight into the relationship prior to and during their marriage in support of his contention he entered the marriage in good faith. Similarly, the four letters of support submitted by the Petitioner's former employer, acquaintances, and friends also contain detail relating to claimed abuse but do not contain information demonstrating the Petitioner's intention in entering marriage or the *bona fides* of his marital relationship. And we concur with the Director that the Petitioner submits limited documentation of joint financials and shared responsibilities for a marriage that spanned over six years.

As the Petitioner entered into his marriage while in immigration removal proceedings, he must establish by *clear and convincing evidence* that he entered into marriage with S-B-M- in good faith. The Petitioner has not demonstrated that the record is sufficient to establish he met this burden. As such, the Petitioner has not overcome the basis of the Director's denial on appeal.

ORDER: The appeal is dismissed.