



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

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

In Re: 19978320

Date: JUL. 5, 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). 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 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). 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 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 "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).

## II. ANALYSIS

The Petitioner, a citizen of Brazil, was placed into removal proceedings in [REDACTED] 2002. He married his U.S. citizen spouse, R-G-,<sup>1</sup> in [REDACTED] 2016 while he was in removal proceedings. The Petitioner subsequently filed his VAWA petition in July 2018. The Director issued a notice of intent to deny (NOID), notifying the Petitioner that a USCIS investigation revealed discrepancies related to his personal affidavit and evidence he submitted with the VAWA petition to establish his good faith marriage and joint residence with R-G-. The Director noted, for example, that the submitted utility statements, which included the Petitioner’s and his spouse’s names and their claimed joint residence address, appeared altered. When USCIS contacted the utility company to verify the legitimacy of the utility bills, the company representative viewed the account history and noted that the Petitioner was never added to the account and the account was only in his spouse’s name since it was opened in 2012. The Director notified the Petitioner that USCIS obtained additional information, through a search of the county register of deeds and mortgages as well as communication with the owner of the property where the Petitioner claimed to have jointly resided with his spouse, that revealed discrepancies related to his joint residence claim.

In response to the NOID, the Petitioner provided an additional personal affidavit, bank and credit card statements, utility bills, a second psychological evaluation, life and car insurance documents, photographs, and mail correspondence. The Director determined that the evidence did not overcome the deficiencies and discrepancies noted in the NOID and the Petitioner had not met his burden of establishing by clear and convincing evidence that he entered into marriage with R-G- in good faith, as required by section 204(g), since the Petitioner married his spouse while in removal proceedings. The Director also found that the Petitioner had not demonstrated his joint residence with R-G- or that he was subjected to battery or extreme cruelty during the marriage, and noted that the derogatory information in the record concerning the Petitioner’s claimed residence with R-G- further impacted his claim of good faith intentions. 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 provides a brief from his counsel and asserts the Director erred in finding that his credibility has been called into question based on the USCIS investigation. He argues that he submitted the original utility bills to overcome the finding that the bills were fraudulent; whether or not his spouse added the Petitioner’s name to the account correctly, there was an intent to add him to the account; it is reasonable to believe the landlord did not know the Petitioner was living with his spouse; and the Director misconstrued the deed and mortgage history for separate properties that the Petitioner previously owned with his former partner and friend. The Petitioner contends that the Director improperly discredited the submitted evidence, including the jointly filed income tax returns, statements from friends, mail correspondence, bank and credit card statements, photographs, and psychological evaluations, due to the alleged discrepancies and asserts that he has met his burden of proof by clear and convincing evidence that this marriage was *bona fide* because he provided an explanation for these discrepancies. The Petitioner submits on appeal the 2016 federal income tax

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<sup>1</sup> Initials are used to protect the privacy of this individual.

transcript for the Petitioner and his spouse, a notarized letter from his former partner and friend regarding the Petitioner's previously owned properties, and deeds for those properties.

Upon *de novo* review, we adopt and affirm the Director's decision that the Petitioner has not established by clear and convincing evidence that he married R-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 of Immigration Appeals (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 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 R-G- in good faith. The Petitioner's brief submitted on appeal does not provide sufficient explanations to resolve the discrepancies in the record or demonstrate the Director erred in concluding that the submitted utility bills were fraudulent. Further, the new evidence on appeal, such as the 2016 federal tax transcript, copies of deeds for the Petitioner's previously owned properties, and a letter from his former partner, does not overcome the Director's finding that the Petitioner did not establish by clear and convincing evidence that he married R-G- in good faith. The additional evidence primarily speaks to the Petitioner's claim that he jointly resided with R-G- and does not demonstrate his intent in entering marriage with R-G- or address the fraudulent documents in the record.

In addition, the Petitioner's affidavits and third-party letters of support lack probative details related to the Petitioner's claim of good faith marriage to R-G-, fail to substantively describe shared experiences, and do not sufficiently detail the development of the Petitioner's relationship with R-G-. The Petitioner's affidavits address his courtship with R-G- in a general manner, describing how he met him in March 2016 at his place of employment; they started dating and would go to restaurants, the mall, museums, and take part in outdoor activities together; the Petitioner was certain he found his soulmate and the love of his life; and R-G- proposed to him in October 2016. The Petitioner's affidavits offer minimal insight into the relationship prior to and during their marriage and do not contain sufficient detail demonstrating his intent in entering marriage with R-G-. The third-party letters are similarly vague regarding the Petitioner's courtship and marriage to R-G- and do not provide detailed and specific descriptions of shared experiences and interactions between the Petitioner and R-G-. In whole, these affidavits and letters 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 in light of the discrepancies revealed by the USCIS investigation, the supporting documentation submitted by the Petitioner, to include the bank and credit card statements, utility bills, psychological evaluations, life and car insurance documents, photographs, and mail correspondence, hold diminished evidentiary weight.

As stated, because he entered into marriage while in immigration removal proceedings, the Petitioner must establish by *clear and convincing evidence* that he entered into marriage with R-G- in good faith. As discussed above, considering the lack of consistent, probative evidence, the Petitioner has not met

this burden. Therefore, the Petitioner has not established his eligibility for immigrant classification under VAWA.

Since the identified basis for denial is dispositive of this matter, we decline to reach and hereby reserve the Director's remaining grounds for denial regarding the Petitioner's joint residence with R-G- and his claim that he was subjected to battery or extreme cruelty during the marriage, as required under sections 204(a)(1)(A)(iii)(II)(dd) and (III)(bb) of the Act. *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.