



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

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

In Re: 20083435

Date: JUL. 11, 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 in the Immigration and Nationality Act (the Act) at section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). The Director of the Vermont Service Center denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition), and the matter is before us on appeal. Upon *de novo* review, we will dismiss the appeal.

I. LAW

A petitioner who is the spouse of a United States citizen may self-petition for immigrant classification if the petitioner demonstrates that they entered into the marriage with a United States citizen spouse in good faith and that during the marriage, the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii)(I) of the Act; 8 C.F.R. § 204.2(c)(1)(i). In addition, petitioners must show that they are eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, resided with the abusive spouse, and are a person of good moral character. Section 204(a)(1)(A)(iii)(II) of the Act; 8 C.F.R. § 204.2(c)(1)(i).

Petitioners bear the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). U.S. Citizenship and Immigration Services (USCIS) must consider "any credible evidence" in a VAWA petition; however, we determine, in our sole discretion, the credibility of and the weight to give that evidence. See section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. ANALYSIS

The Petitioner is a native and citizen of Uzbekistan who entered the United States in 2005 with an H-2B visa. In [REDACTED] 2013 he married a U.S. citizen, G-M-S-,¹ with whom he claimed he resided from October 2012 to June 2014 at an address he listed on Form I-360 in [REDACTED] New York. He filed the instant VAWA petition in January 2017, and the Director denied the petition, finding evidence insufficient to establish that the Petitioner entered into marriage with G-M-S- in good faith. The

¹ We use initials to protect individual identities.

Petitioner previously filed VAWA petitions in June 2014 and September 2015, and both were denied based on a finding that the Petitioner did not establish that he was subjected to battery or extreme cruelty. The record contains the Petitioner's personal affidavits, letters of support, psychiatric reports, financial records, civil documents, and photographs. On appeal, the Petitioner submits a brief, additional affidavits of support, supplemental financial records, and photographs.

In a 2014 affidavit submitted with the first VAWA petition, the Petitioner described meeting G-M-S- at a friend's birthday party in September 2012, that afterward they talked daily on the phone, and that he took G-M-S- and her daughter to dinner, movies, and shopping. The Petitioner stated that later in September G-M-S- invited his friends and him to her birthday party where he met her family, that she invited them to her daughter's birthday party in October 2012, and that G-M-S- and her daughter then moved in with the Petitioner so G-M-S- could be close to her job. The Petitioner recalled that in November 2012 he invited G-M-S-'s family to Thanksgiving dinner at a restaurant, that he spent Christmas at her parents' home, and that at a 2012 New Year's Eve party he proposed. He stated that the couple married in [REDACTED] 2013 at city hall followed by a dinner with friends, and that after marrying they moved to a larger apartment. The Petitioner explained that he and G-M-S- lived well together until her boyfriend got out of jail in April 2014 when her behavior changed, she began using drugs, and started mistreating him. The remainder of his affidavit and two subsequent affidavits described her behavior including verbal abuse, money demands, and going away for days at a time while leaving her daughter with the Petitioner.

In a 2015 affidavit, B-D-, who identified himself as a long-time friend, stated that he was with the Petitioner when he met G-M-S- and at subsequent parties together, and that he drove the Petitioner to visit G-M-S- and met her parents. B-D- described G-M-S- as a good woman who took care of their apartment and her daughter and recalled the 2012 New Year's Eve party where the Petitioner proposed. B-D- stated that the Petitioner was very happy when they moved to a new apartment in [REDACTED] 2013 but then problems began with G-M-S-.

In denying the petition, the Director addressed only that the Petitioner did not establish that he entered marriage with G-M-S- in good faith. The Director determined that bank statements from July 2013 through June 2014 for an account ending in 0950 and listing the Petitioner's name first showed the account used only by the Petitioner in the [REDACTED] geographic area and did not include household bills and was thus insufficient to establish commingling of funds or shared responsibilities. The Director then determined that July and August 2013 statements for a second bank account, ending in 5039 and listing G-M-S- first, showed most transactions in the [REDACTED] NY, area rather than the [REDACTED] area where the Petitioner claimed he then resided with G-M-S-.² The Director surmised that the two bank accounts were used separately by the Petitioner and G-M-S- in different parts of the state, observed that these two areas were more than 100 miles apart, and concluded that the transactions did not suggest commingling of resources or shared financial responsibilities consistent with a *bona fide* marriage. The Director further determined that a lease agreement from 2013 to 2015 was signed by only one tenant but the signature did not appear to match that of either G-M-S- or the Petitioner. The Director also noted that state income tax returns for 2013 through 2017

²The record contains monthly bank statements for the account ending in 5039 covering June 2013 through December 2013 all showing use in the [REDACTED] area. We note that the Form G-325A Biographic Information submitted by G-M-S- and the couple's 2018 judgment of divorce indicate G-M-S- was living in or near [REDACTED] NY before the marriage and at the time of their divorce.

were not signed, certified copies so it was unknown if they were filed, and that they included G-M-S- even though the Petitioner stated the couple separated in [] 2014. The Director concluded that evidence was insufficient to show that the Petitioner entered into the marriage in good faith.

On appeal, the Petitioner contends, through counsel, that the Director erred by failing to acknowledge a preponderance of evidence for his good faith marriage. The Petitioner discusses the development of VAWA provisions and the intent of Congress to protect victims of abuse. He maintains that the abuser controls the documents central to proving good faith marriage and other eligibility requirements, so Congress created the “any credible evidence” standard for VAWA. The Petitioner asserts that USCIS must consider the nature and impact of domestic abuse in making a credibility determination in VAWA cases and refers to a memorandum issued by the General Counsel of the former Immigration and Naturalization Service (INS).³

The Petitioner also lists evidence already submitted including photographs, affidavits from friends, postcards from a family friend, a birthday card to him from G-M-S-, a temporary protection order against G-M-S-, and psychiatric reports. He maintains that the Director’s decision suggests the evidence was considered credible but then minimized, dismissed, and ignored evidence while failing to explain why it was insufficient or to articulate what was missing. With the appeal the Petitioner provided five additional affidavits where each affiant expressed the belief that he entered marriage with G-M-S- in good faith, but they offer no further detail or observations.

We agree with the Director’s determination that the Petitioner did not demonstrate he entered marriage with G-M-S- in good faith. The Petitioner’s affidavit submitted with his first VAWA petition identifies particular events and describes his marriage proposal to G-M-S-, but he did not detail the development of the relationship, any mutual interests, and daily routines leading up to the marriage, or offer other insight into his intentions at the time of marriage. Although the Petitioner refers to activities with G-M-S- and her daughter prior to the marriage, his affidavits offer little insight into the dynamics of the relationship leading to his decision to marry but rather focus largely on the claimed abuse by G-M-S-.

The affidavit by B-D- also details parties and identified attendees but does not offer observations or other details that would show the Petitioner’s intent at the time of marriage. The psychiatric reports repeat events as conveyed by the Petitioner and focus on the behavior of G-M-S- and the effect on the Petitioner, but they do not provide insight into his intentions at the time of entering the marriage. The additional affidavits submitted on appeal express the belief that the Petitioner entered marriage with G-M-S- in good faith but offer no specific detail. Overall, the affidavits do not sufficiently demonstrate the Petitioner’s intention in entering marriage or the *bona fides* of his marital relationship. With his petition and on appeal the Petitioner submitted photographs of him with G-M-S- and her daughter but without other description, and he did not include photos of the wedding or other events identified by him or in the affidavit by B-D-.

On appeal, the Petitioner does not address the Director’s findings that the two bank accounts were used individually at separate geographic locations, and we note that, like the previously submitted

³ See INS Office of the General Counsel, Memorandum for Terrance M. O’Reilly, “*Extreme Hardship*” and *Documentary Requirements Involving Battered Spouses and Children* (Oct. 16, 1998), <http://www.uscis.gov/laws/policy-memoranda>.

2013 bank statements, additional statements submitted on appeal also list transactions only in the [REDACTED] NY area for one account, indicating the accounts were used separately as the Director determined. The Petitioner also did not address the finding that the lease agreement contained only one signature that did not appear to match that of either the Petitioner or G-M-S-. Neither in response to the Director's request for evidence nor on appeal does the Petitioner address the Director's concerns, and he does not offer additional information or detail on appeal to support his assertion that he entered marriage with G-M-S- in good faith.

As stated above, although we must consider any credible evidence relevant to a VAWA petition, we determine, in our sole discretion, what evidence is credible and the weight to give to such evidence. While we recognize that some traditional forms of evidence of a good faith marriage may be difficult to obtain as the result of an abusive relationship, the Petitioner's affidavits and those of friends lack probative detail of his good faith intentions at the time of the marriage, and he has not addressed on appeal the specific deficiencies identified by the Director. The record overall lacks persuasive or detailed evidence that the Petitioner married G-M-S- in good faith. Accordingly, he remains ineligible for classification as the abused spouse of a U.S. citizen.

ORDER: The appeal is dismissed.