



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

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

In Re: 17479817

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 dismissed a motion to reopen. 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). In addition, among other things, a petitioner must establish their good moral character and that they have resided with the abusive spouse. Section 204(a)(1)(A)(iii)(II)(bb) and (dd) of the Act.

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).

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). While 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). 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).

## II. ANALYSIS

The Petitioner is a native and citizen of Jamaica who entered the United States in 2003 as a B2 nonimmigrant visitor. In [REDACTED] 2009, she married her U.S. citizen spouse, O-L-W-,<sup>1</sup> from whom she claims to have separated in April 2015. She filed her VAWA petition in January 2019 based on her marriage to O-L-W-, along with personal affidavits, letters of support, a 2009 lease, and photographs. The Director denied the petition, finding that the Petitioner did not establish that she resided with her U.S. citizen spouse and that she entered the marriage with him in good faith. On appeal, the Petitioner supplements the record with an updated statement,<sup>2</sup> financial records, and copies of previously submitted affidavits, asserting her eligibility. Our review of the record indicates that the Petitioner has not overcome the Director's finding that she did not demonstrate her good faith marriage.<sup>3</sup>

In statements below, the Petitioner recalled meeting O-L-W- at a grocery store in November 2008 and indicated that he later called her for a date, that she found him funny and easy to talk to, that they both had sons the same age, and that he quickly became part of her life. The Petitioner stated that she was madly in love, jumped at a chance to move out her parents' home to live with O-L-W- in January 2009, that he proposed in August 2009, and that they married in [REDACTED] 2009. She claimed that O-L-W- started taking drugs, was jealous, and became physically and emotionally abusive, and that in 2011 he choked her, so she moved in with her father and stepmother. However, she indicated that she and O-L-W- got back together in 2013 as he was turning his life around. In one affidavit, the Petitioner stated that O-L-W- then stayed with his parents while she stayed with her stepmother because he worked as a truck driver for weeks at a time, but in another, she suggested that he moved into her parents' home where her father counseled him. The Petitioner explained that she did not amass documentation of their marriage because it was a day-to-day fight to survive. She maintained that O-L-W- failed to show up at their scheduled immigration interview and she also alleged that he used her for his sexual needs.

The record also included several affidavits, including from L-J- and R-J-, who claimed that they were long-time friends of O-L-W- and had rented a room in their home to the Petitioner and O-L-W- in 2009. They indicated that the couple seemed to be in love until O-L-W- became physical, and the Petitioner moved to her stepmother's house. An affidavit from C-B-, who identified herself as a neighbor, stated that the Petitioner and O-L-W- seemed to be a loving couple but by 2012, the Petitioner was gone. The Petitioner's stepmother, J-M-P-, in her affidavit recalled that she was uncomfortable about the couple's age difference and indicated that the relationship became abusive in 2011 so the Petitioner moved in with her father and J-M-P- who then assisted in repairing the relationship. A friend of the Petitioner, S-S-, stated that she saw the couple at parties and that after they married, O-L-W- proved unreliable, was hardly home, did not help the Petitioner, and forced himself on her.

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<sup>1</sup> We use initials to protect individual identities.

<sup>2</sup> We will consider the Petitioner's factual assertions in her *pro se* appeal brief as her supplemental statement on appeal.

<sup>3</sup> Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding shared residence. *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) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

In denying the VAWA petition, the Director concluded that the Petitioner's statements did not provide sufficient details of her courtship, shared experiences, marriage ceremony, and interactions with O-L-W- to establish that she entered into marriage with him in good faith. The Director therefore determined that the Petitioner's statements were not persuasive without independent evidence to demonstrate the shared emotional, economic, and domestic bonds normally associated with a *bona fide* marriage. The Director acknowledged the documentary evidence in the record, including the Petitioner's marriage certificate establishing the couple's legal marriage, a 2009 lease signed only by the Petitioner, and photographs of the couple together on a handful of occasions, but concluded they were insufficient to establish her good faith marital intentions. Lastly, the Director noted the affidavits by the Petitioner's friends stating that they visited the Petitioner and her spouse and witnessed their relationship, but determined that the statements were vague and did not offer specific information or provide details that indicated firsthand knowledge of the Petitioner's domestic life with her spouse.

On appeal, the Petitioner reasserts her claim that she married O-L-W- in good faith and argues that she has presented substantial evidence to establish her good faith marital intentions. Upon *de novo* review, we adopt and affirm the Director's decision with the comments below. *See Matter of P. Singh, Attorney*, 26 I&N Dec. 623 (BIA 2015) (citing *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) ("[I]f a reviewing tribunal decides that the facts and evaluative judgments prescinding from them have been adequately confronted and correctly resolved by a trial judge or hearing officer, then the tribunal is free simply to adopt those findings" provided the tribunal's order reflects individualized attention to the case).

The Petitioner's arguments and evidence on appeal are not sufficient, standing alone or viewed in totality with the underlying record, to meet her burden of establishing that she married her spouse in good faith. The Petitioner reiterates on appeal that she met O-L-W- when she was a young, unmarried mother and wanted out of her parents' home. She asserts that they tried to make their marriage work again but it did not last long and that the last straw was when her spouse failed to show up to her immigration interview in 2016. She states again that O-L-W- spent just a few nights a week with her while he was on the road for work when they were together. She maintains that they are still married, that O-L-W- tries to return to a normal married life with her, that he uses her address for his car registration and to receive mail, and that he visits her son for his birthday and on holidays. The Petitioner further contends on appeal that the affidavits from her stepmother, landlord, and friends submitted below attest that she and O-L-W- lived together from 2009 until 2012 when they separated due to domestic violence.

With the appeal, the Petitioner also submits a car title and registration with an auto insurance policy in O-L-W-'s name, each dated in 2020, along with correspondence from a life insurance company and utility bill in the Petitioner's name, both also dated in 2020. Each document lists an address which corresponds to an address used by the Petitioner. She also submits copies of 2015 affidavits from O-L-W- submitted in support of the Petitioner's Form I-485, Application to Adjust Status based on a Form I-130, Petition for Alien Relative, O-L-W- filed on her behalf.<sup>4</sup> In his affidavits, O-L-W- indicated that he was jealous during his relationship with the Petitioner, that the couple broke

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<sup>4</sup> The Form I-130 and Form I-485 were denied in April 2016 after the Petitioner's spouse failed to appear at a scheduled interview.

up in late 2011, that his life then spiraled downward and he was arrested for burglary in 2013, and that he sought to repair the relationship.

As the Director noted, in her affidavits, the Petitioner only generally described starting a relationship with O-L-W, being in love, wanting to move out of her parents' home, and their life together. Apart from the claimed abuse by her spouse, the Petitioner did not provide any substantive detail regarding the couple's mutual interests, their courtship, marriage ceremony, post-ceremony celebration, or any shared experiences, and therefore, her affidavits offered little insight into the development of the couple's relationship and the Petitioner's good faith marital intentions. Her statement on appeal is similarly lacking in probative detail regarding the couple's relationship and life together and the Petitioner's marital intentions.

We also find no error in the Director's finding that the documentary evidence below, including the letters of support from third parties, the marriage certificate, photographs of the couple, and the 2009 lease signed only by the Petitioner are insufficient to establish the Petitioner's good faith marital intentions, particularly in the absence of probative testimony from her. The supporting affidavits are general and do not offer probative details regarding the Petitioner's relationship or the authors' interactions or shared experiences with them before or after their marriage. The 2015 affidavits from O-L-W- attempt to explain his abusive behavior towards the Petitioner, but they too do not provide insight into their relationship or otherwise shed light on the Petitioner's intentions in entering into marriage with O-L-W-. The Petitioner asserts on appeal that O-L-W- still attempts a married life with her and she submits documents that suggest that he currently uses her address to receive mail, though they no longer reside together. This evidence does not support the Petitioner's contention that she entered into their marriage in good faith. The Petitioner explains that she did not collect documentation of their marriage and 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. However, in the absence of probative testimony and evidence from the Petitioner, she has not demonstrated her good faith intentions at the time she entered into marriage with O-L-W-.

Accordingly, the record, including the Petitioner's affidavits and other evidence submitted below and on appeal, are not sufficient to establish that the Petitioner entered into marriage with her U.S. citizen spouse in good faith. As the Petitioner has not established this requirement, she has not demonstrated that she is eligible for immigrant classification pursuant to VAWA.

**ORDER:** The appeal is dismissed.