



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

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

In Re: 20417170

Date: JUL. 21, 2022

Motion on Administrative Appeals Office 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). We dismissed the Petitioner's subsequent appeal and motions to reopen and reconsider, which we incorporate here by reference. The matter is before us again on motion to reopen and reconsider. On motion, the Petitioner does not submit additional evidence and asserts the record demonstrates his eligibility for the benefit sought. In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon review, we will dismiss the motions.

I. LAW

A motion to reopen must state new facts to be proved and be supported by affidavits or other evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

II. PROCEDURAL HISTORY AND ANALYSIS

The Petitioner, a citizen of Nigeria, married L-L-,¹ a U.S. citizen, in [] 2013 and filed the current VAWA petition in March 2016. The Director denied the petition, concluding that the Petitioner did not establish that he had a qualifying relationship with his U.S. citizen spouse, entered into marriage in good faith, jointly resided with L-L-, or was subjected to battery or extreme cruelty. Though we initially affirmed the Director's finding that the Petitioner had not demonstrated the requisite qualifying spousal relationship to a U.S. citizen, in a subsequent decision we concluded that the Petitioner had addressed the discrepancies in the record and demonstrated the legal termination of his prior marriage. However, we also concluded that the Petitioner had not overcome our prior determinations that he did not establish he married L-L- in good faith, jointly resided with her, or that

¹ We use initials to protect the privacy of individuals.

she subjected him to battery or extreme cruelty during the marriage. We found that the Petitioner did not demonstrate he entered into the marriage with L-L- in good faith because the evidence provided was general and lacked sufficient probative detail. We determined that he offered no additional documentation or further explanation to show joint residence or overcome discrepancies in lease documents and derogatory information obtained by USCIS officers during a visit to his claimed residence with L-L-. We further concluded that he failed to establish error in our previous decision that the evidence did not show he was subjected to any actual or threatened violence, or any other actions comparable to battery or extreme cruelty.

On the instant motion, the Petitioner asserts that the previous decisions were not in accordance with applicable law, policy, and legal decisions; the Director's finding that he had no qualifying relationship affected the determination that he did not meet the other eligibility requirements; and we did not give sufficient weight to submitted evidence, such as his personal affidavits and third-party statements that discussed his residence with L-L- in Texas and his good faith marriage. The Petitioner further contends that all of the evidence must be independently analyzed again because the Director made mistakes regarding the analysis of the lease, notice to vacate the property, and his driver's license. The Petitioner reasserts his contention that his VAWA petition was originally denied because he was not present during a USCIS investigatory visit to his residence and due to USCIS officers' inaccurate conclusions following their questioning of the Petitioner at his sister's residence. The Petitioner argues that the previously submitted evidence establishes his eligibility for the benefit sought, the marriage was entered in good faith, he jointly resided with his spouse, and he was abused by his spouse.

The claims made by the Petitioner on the instant motion have been addressed in our previous decisions where we concluded there were discrepancies in the documentary evidence and a lack of probative detail in the submitted affidavits. As noted in our prior decisions, the record lacked relevant, credible evidence of the Petitioner's marital intentions, noting that affidavits submitted by the Petitioner and others were general and did not provide sufficient probative detail. For example, the Petitioner stated that he met L-L- at a store, they exchanged phone numbers and started talking to each other, he liked her and soon his likeness of her turned into love, L-L- told the Petitioner that she loved him, and they moved into a different apartment when they were married. Affidavits provided by L-L- and the Petitioner's friends and mother are similarly vague and do not include sufficient details regarding the Petitioner's relationship with L-L- prior to marriage, shared experiences, or other significant events together. On motion, the Petitioner submits no additional evidence or explanation addressing the lack of detail in his personal affidavits and third-party statements. The Petitioner further contends that the submitted evidence establishes joint residence with his spouse and that he suffered battery and extreme cruelty. However, he does not submit new evidence to overcome the deficiencies noted in our previous decisions. For example, we noted discrepancies related to the submitted lease documents, explained that the psychological evaluation did not sufficiently describe acts similar to qualifying abuse, and indicated that the Petitioner's affidavits and his mother's statement lacked sufficient details about specific incidents of abuse.

Concerning the Petitioner's repeated assertion that his VAWA petition's denial was largely due to his absence when USCIS investigators visited his residence because he was away caring for his mother, we noted in our previous decisions that his mother's affidavit did not address whether he was providing care at that time. We further noted that the record reflected our determination was based on the absence of relevant and credible evidence of the Petitioner's joint residence and good faith marriage with L-L-

and not solely because he was not present during the USCIS visit. Further, as we indicated in our previous decisions, a review of the record does not support the Petitioner's assertion that the Director found he did not establish good faith marriage and joint residence based on the flawed conclusion he had no qualifying relationship with a U.S. citizen. The determinations related to good faith marriage, joint residence, and battery or extreme cruelty were made separate from establishing a qualifying relationship.

Upon review, the Petitioner has not submitted consistent, probative evidence to establish, by a preponderance of the evidence, that he is eligible for immigration classification under VAWA such that he has met the requirements for a motion to reopen. *See Matter of Chawathe*, 25 I&N Dec. at 375-76 (describing the petitioner's burden under the preponderance of the evidence standard and explaining that in determining whether a petitioner has satisfied their burden, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence). Further, the Petitioner has not established that our prior decision was based on an incorrect application of law or USCIS policy or that our decision was incorrect based on the evidence in the record of proceedings at the time of the decision. As the Petitioner has not established that he had a good faith marriage to L-L-, he jointly resided with her, or she subjected him to battery or extreme cruelty, he remains ineligible for immigration classification under VAWA and the petition remains denied.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.