U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 18948496

Date: JUL. 25, 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) finding the Petitioner had not established that he resided with his U.S. citizen spouse or entered into the qualifying relationship in good faith. The matter is before us on appeal. On appeal, the Petitioner submits a statement and additional documentation. 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). Upon de novo review, we will dismiss the appeal.

I. LAW

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if he demonstrates, in part, that he was in a qualifying relationship as the spouse of a U.S. citizen, is eligible for immigrant classification based on this qualifying relationship, entered into the marriage with the U.S. citizen spouse in good faith and was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(i)-(iii) of the Act. The petition cannot be approved if the petitioner entered into the marriage to the abuser for the primary purpose of circumventing the immigration laws. 8 C.F.R. § 204.2(c)(1)(ix); see also 3 USCIS Policy Manual D.2(C), https://www.uscis.gov/policy-manual (explaining, in policy guidance, that the self-petitioning spouse must show that at the time of the marriage, they intended to establish a life together with the U.S. citizen spouse).

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). 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).

II. ANALYSIS

A. Relevant Background and Procedural History

The Petitioner is a native and citizen of Bangladesh who first entered the United States on a student visa in August 2013. In support of his VAWA petition, the Petitioner submitted a personal statement dated February 2019, which stated the following: he met V-M-,[1] a native-born U.S. citizen, in December 2013 at her family reunion. He was invited to the event by V-M-'s cousin, who introduced him to V-M-. He and V-M- spoke on the phone daily, he visited her "frequently" in [redacted] Pennsylvania, and they "visited a lot of places, dined at restaurants, went to movies, and enjoyed a lot of time together." He proposed to her in April 2014 and his family members "were very upset" because V-M- was not of his "Islamic faith" and was the mother of three children. The Petitioner's family threatened to disown him if he married V-M- and that "conservatives from [his] neighborhood in Bangladesh . . . declared to punish [him] if they ever f[ou]nd him." Petitioner and V-M- married in [redacted] 2014 and lived together in [redacted] Pennsylvania.

In August 2014, V-M-filed Form I-130, Petition for Alien Relative, on the Petitioner's behalf. The Petitioner simultaneously filed Form I-485, Application to Register Permanent Residence or Adjust Status (adjustment application). According to the Petitioner's 2019 statement, he moved to New York in December 2014 because he and V-M- were having difficulties in their marriage and V-M- "kicked [him] out of her house." He stated they reconciled in January 2015 and he and V-M- moved in together in [redacted] New York. He also said in March 2015 he learned that V-M- was pregnant but after "a few months" she told him the baby was fathered by someone else. In August 2016, the Petitioner and V-M- were interviewed together. The interviewing officer found the couple failed to establish a bona fide marital relationship and referred the Petitioner and V-M- for a second interview with another officer, which was held in March 2017. In his 2019 statement, the Petitioner explained that V-M- told him after the interview that she was answering questions incorrectly "on purpose" because "if [he] g[o]t [his] green card, she would not be able to control [him]." During the second interview, numerous discrepancies were found in the couple's testimony,[2] of which the evidence in the record and the

[1] Initials are used to protect the identities of the individuals.

[2] The decision denying the Form I-130 listed some of the inconsistencies, which included in relevant part, that V-M- was not aware when the Petitioner started work or arrived home the prior weekend, did not know where the Petitioner worked, could not identify the names of his parents and said she never spoke to them, could only name one of the Petitioner's brothers, did not know what city in Bangladesh the Petitioner was from, was unable to say who the Petitioner lived with before moving in with her, was mistaken about the month the Petitioner proposed and the month they moved in together, did not know how much they paid in rent, was unable to say whether they paid for rent by check or for how long their lease was, was mistaken about what type of laptop they owned, did not recall buying her own wedding band, was unable to identify what bank their shared account was under, was mistaken about the type of car the Petitioner drove, and confessed to not knowing how to travel by subway or buses in New York. The Petitioner was unaware of the ages and birthdays of V-M-'s 13-year-old and 7-year-old daughters, was mistaken about who V-M-'s best friend was, claimed V-M- spoke to

couple's opportunity to rebut did not overcome. The Form I-130 and adjustment application were therefore denied. Again, the Petitioner explained in his 2019 statement that V-M- answered the interviewing officer's questions incorrectly on "purpose" to control him. He said in May 2017 V-M- moved back from New York to Pennsylvania to live and he followed her in June 2017.

In November 2017, V-M- filed a second Form I-130 on the Petitioner's behalf and the Petitioner filed another adjustment application. In November 2018, V-M- withdrew the Form I-130 at the interview and both the Form I-130 and adjustment application were denied. The Petitioner explained in his 2019 statement that V-M- told him she feared he would leave her once he obtained his green card so she withdrew the petition. The Petitioner did not explain why V-M- would make the effort to attend the interview only to withdraw the Form I-130 petition when she could have done so at any time. He stated he could not endure the relationship and moved back to New York in December 2018.

In February 2019, the Petitioner filed his VAWA petition and the Director issued a request for evidence (RFE), identifying a number of issues and inconsistencies in the record related to the couple's joint residence and good faith marriage requirement. The Director described in the RFE that the 2017 tax documents and lease agreements had the Petitioner residing in Pennsylvania when he claimed to be residing in New York. In addition, the Petitioner was notified that an immigration officer contacted the landlord listed on the Pennsylvania lease agreement and the landlord stated he did not know the Petitioner and was not aware of a Bangladeshi male living in the apartment with V-M-. The Director also raised in the RFE that one of the Pennsylvania leases covered a duration in time that was already covered by another lease at the same address and appeared altered from January 2015 ending in June 2015 to read January 2016 ending in June 2016. The Director also explained that the Petitioner submitted lease agreements and 2017 tax documents evidencing he was living in New York when he stated he was living in Pennsylvania. Additional inconsistencies included: during his 2018 interview he testified to reconciling with V-M- in April 2015, which was when he learned she was pregnant with another man's child, but his 2019 statement asserted that they reconciled in January 2015, he learned she was pregnant in March, but became aware he was not the father months later. In addition, the RFE addressed how the existing record did not establish by a preponderance of the evidence that the Petitioner entered into the qualifying marriage in good faith. According to the RFE, the bank records submitted in support were for joint checking accounts at two separate banks and did not evidence a comingling of finances. Further, an immigration officer contacted V-M-'s employer who confirmed that she worked in Pennsylvania from 2016 through 2018, when the Petitioner claimed she lived in New York.

In response to the RFE, the Petitioner provided a statement repeating details in his 2019 statement regarding how he met V-M-. His testimony changed with respect to his parents, who he stated gave their blessing for his marriage and stated, "the only thing [that] mattered to them was [his] happiness." With respect to his landlord not knowing him, the Petitioner stated the landlord was not competent in reading and writing in English, that the landlord's family member generated the lease agreements and that at 59 years old, the landlord did not have the best memory. He included an affidavit by the landlord, who stated that he was "not able to give a factual answer [to the immigration officer] because

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his parents on numerous occasions, did not know V-M-'s father's name, could not say if V-M-'s brother was married or had children, had not met V-M-'s father or brother, and was unaware that V-M- wore glasses to read. Neither party knew each other's religion or whether they practiced.

[he] d[id] not live at the property and [he] maintain[ed] extremely limited contact with [his] tenants." With respect to V-M- working in Pennsylvania while the Petitioner claimed she lived in New York, the Petitioner claimed that V-M- hid an affair from him so she could have hidden working in another state. In the decision denying the VAWA petition, the Director reiterated much of the analysis in the RFE and further explained that the landlord spoke to the immigration officer in Spanish, not English and that the landlord's driver's license, submitted with his affidavit, indicated that he resided at the address of the leased apartment. The Director also determined that the Petitioner's statement in response to the RFE did not clarify the noted inconsistencies in the record.

On appeal, the Petitioner relies on his statement on appeal, along with the additional documentation, to support his assertions that the Director erred in denying the petition and that he is eligible for immigrant classification under VAWA.

B. The Petitioner Has Not Established Entering into the Marriage in Good Faith

The Petitioner has not established by a preponderance of the evidence that he entered into a qualifying relationship in good faith and not for the primary purpose of circumventing the immigration laws as required by the Act and implementing regulations. Section 204(a)(1)(A)(iii) of the Act; 8 C.F.R. § 204.2(c)(1)(ix). In support of the VAWA petition, the Petitioner submitted many of the documents described in 8 C.F.R. § 204.2(c)(2)(i) and (vii) to support his assertions of good faith marriage. However, probative details of the Petitioner's courtship, proposal, and wedding were not provided, the evidence submitted did not support a good faith marriage determination, and many inconsistencies were raised in the record below questioning the credibility of the evidence presented which the Petitioner has not overcome on appeal.

The Petitioner included with his VAWA petition statements by both his and V-M-'s friends and family. However, the statements were general in nature, stating the Petitioner and V-M- were a "happy couple" and "in love," but providing few details on the couple, their courtship, or life together. On appeal, the Petitioner's submissions are similar in nature, as they generally detail the Petitioner and V-M- living together and that they married with the intention of staying together. For example, the Petitioner's mother-in-law provided a statement saying she attended the Petitioner's wedding but adds no details about the wedding or the couple's courtship. The Petitioner submitted, in the underlying record, several photographs captioned with the years 2014-2018 and a few were described as wedding photographs. The photographs themselves are not timestamped and, other than the wedding photographs, the descriptions do not provide context for or insight on where the couple were when the photographs were taken, things the couple did together, their shared experiences, or moments that were special to them. For these reasons, the photographs and statements do not establish that the Petitioner and V-M- intended to establish a life together and entered into the marriage in good faith.

The Petitioner's statement on appeal does not clarify the inconsistencies raised by the remaining submissions in the record. With respect to his altered lease and his landlord not knowing who he was, the Petitioner says the landlord lived at another address and did not deal with the Petitioner for rent payments and does not know all the people living at his [redacted] Pennsylvania property. He also asserted below that the landlord's family member helped him draft the lease but did not explain why the dates would be incorrect and had to be handwritten, or why there were multiple leases for the same time period, other than to say the landlord had a poor memory. On appeal, the Petitioner submits

another declaration from the landlord, who repeats his statements from his affidavit submitted in support of the RFE and adds he owns two other properties. However, neither the landlord's declarations nor Petitioner's statements clarify why the landlord would affirmatively state to an immigration officer that the Petitioner was not his tenant, rather than saying he was unaware of his tenants.

The Petitioner's statement on appeal also explains that he did not learn about V-M-'s child not being his for a few months after they reconciled and that any discrepancy raised at the interview about when he found out or when they reconciled was because V-M- told him what to say at the interview. In the record below, the Petitioner asserted that V-M- did not want him to obtain his "green card" so she purposefully gave inconsistent testimony to maintain control over him. He did not mention previously that she also was telling him to be inconsistent in his testimony. He does not explain why he is raising this assertion for the first time on appeal, why V-M- would want him to be inconsistent on these particular details and not others, or why he would agree to raising additional discrepancies in the record. Moreover, further undermining this explanation was that the Petitioner was also unable to answer simple questions about V-M-'s life, routine, and family at the interviews. With respect to their joint banking accounts, he reiterates that he and V-M- were using both accounts, which is evidenced by their names being on the top of the statements. However, the Petitioner does not explain why one account evidenced transactions in New York with deposits from his employer, while the other evidenced transactions in Pennsylvania with deposits from V-M-'s employer. Further, with respect to V-M- working in Pennsylvania when he claimed she lived with him in New York, he explains that she traveled back to Pennsylvania weekly to stay with her mother and would come back on weekends. The Petitioner did not describe V-M- traveling back and forth in the underlying record and provides no explanation for how V-M- would be able to travel back and forth to work in Pennsylvania during the time he claims she lived with him in New York. V-M- was listed on a car insurance policy with the Petitioner but was listed as "Driver Permanently Revoked/Suspended" and claimed no knowledge of how to use the buses and trains in New York during the second interview.

Furthermore, there were deficiencies in the documents submitted that were not addressed by the Petitioner. For example, tax records submitted did not support that the Petitioner resided where he claimed to in his statements and for this reason, did not support that the Petitioner and V-M- lived together. As another example, the insurance documents submitted had both the Petitioner's and V-M-'s names, but no documentation evidencing payment on the insurance were provided. In addition, the Petitioner's statement alleging that his parents were against his marriage and members of his community in Bangladesh threatening him, differs significantly from his subsequent statement in response to the RFE stating that his parents supported the marriage and raises issue with formative details about his relationship.

In the end, the record lacks sufficient evidence of the couple's courtship, probative documents evidencing their life together, and detailed statements describing their relationship. Moreover, a majority of the evidence raised inconsistencies and deficiencies and did not support a good faith marriage determination. As discussed above, 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). Based on our de novo review, the Petitioner has not established he entered into a qualifying relationship in good faith. As this issue is dispositive of his appeal, we decline to reach and hereby reserve the

Petitioner's other appellate arguments. 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).

III. CONCLUSION

The Petitioner has not established by a preponderance of the evidence that he entered into his marriage to V-M-, his U.S. citizen spouse, in good faith. Consequently, he has not demonstrated that he is eligible for immigrant classification under VAWA.

ORDER: The appeal is dismissed.