U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 17254949

Date: JUN. 14, 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.

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 Nigeria who entered the United States with her minor son in March 2015 as a B1/B2 nonimmigrant visitor. In [redacted] 2016 she married her U.S. citizen spouse, A-A-J-,[1] with whom she claims on Form I-360 that she resided from July to November 2016. With the VAWA petition, in response to the Director's request for evidence, and on motion to reopen, the Petitioner submitted personal affidavits, a letter of support from a fellow church member, a letter from a domestic violence shelter, a 2016 protection order against A-A-J-, email correspondence from an

[1] We use initials to protect individual identities.

apartment complex, a medical record, civil documents, and photographs. On appeal, she supplements the record with an updated personal affidavit, letters of support, and copies of previously submitted evidence.

The Director determined that documentation on the record was not sufficient to demonstrate the Petitioner entered the marriage in good faith and denied the petition. The Director found that the Petitioner did not establish she intended to establish a life together with A-A-J- and referred to her statement that she resided with A-A-J- in 2016 before moving out in November 2016 and, after she returned for a night in June 2017 and her second son was conceived, she did not see him again and filed for divorce prior to the birth.

In dismissing the motion to reopen, the Director found that the Petitioner submitted no new evidence which overcame the original grounds of denial. The Director noted the Petitioner's claims that she filed for divorce in March 2018 but let the case be dismissed, hoping to reconcile with A-A-J-, and that she relocated from Wisconsin to [redacted] in August 2019 after he abandoned her in June 2019. The Director determined, however, that public records revealed the Petitioner went to court in June 2019 to continue divorce proceedings but A-A-J- failed to appear, and proceedings were then dismissed as neither the Petitioner nor A-A-J- appeared at a rescheduled hearing. The Director surmised that the divorce action was not dismissed due to reconciliation, but rather the Petitioner's own relocation. The Director acknowledged that although medical records submitted on motion confirmed the Petitioner's pregnancy, she did not demonstrate her intention to establish a life with A-A-J-.

On appeal, the Petitioner states that after arriving in the United States she began a relationship with A-A-J-. She asserts that she was in love, so she felt it was the right decision when A-A-J- proposed and claims they received counselling from her pastor and had a quiet wedding. She states that while still in a honeymoon period A-A-J- wanted her to convert to a new religion and became violent and that she discovered he had a drug and drinking problem. The Petitioner explains that in November 2016 she went to a women's shelter out of fear and was told to get a restraining order, but realized she missed A-A-J-. She recalls that when she went to get items from their apartment in June 2017, A-A-J- apologized, they reconciled, and their first son was conceived. The Petitioner indicates that a few months later she found an apartment and they again attempted to live together but that A-A-J- became aggressive so she moved back to the shelter, and she maintains that his addiction was a problem, so she filed for divorce but then asked for it to be dismissed. The Petitioner states that she later moved into an apartment alone, A-A-J- would visit her, and after she became pregnant again he left and did not return.[2]

A letter from D-F- states that she was living with the Petitioner when A-A-J- moved in, and she saw that they loved each other, that they cooked and went out together, and that they wanted a home so got an apartment of their own. A letter from B-A- claims he visited the couple in Wisconsin, that they loved each other, and that he could see they wanted to make a home together. In an undated letter with an illegible signature, a writer recalls that the Petitioner visited A-A-J- in 2017 while the

[2] The Petitioner had previously stated in an affidavit submitted with her motion to reopen that A-A-J- moved in with her in March 2019, but they were unable to rent an apartment together as their joint lease applications were denied, and he abandoned her in June 2019. On appeal the Petitioner submits a birth certificate indicating she had child born in [redacted] 2020 and identifying A-J-J- as the father.

restraining order was in place and worked hard to make marriage a success, but that A-A-J- was sometimes drunk and the marriage was not the best.

After a careful review of the entire record, including the evidence submitted on appeal, we adopt and affirm the Director's decision. *See 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) ("we join eight of our sister circuits in ruling that the Board [of Immigration Appeals] need not write at length merely to repeat the IJ's [Immigration Judge's] findings of fact and his reasons for denying the requested relief, but, rather, having given individualized consideration to a particular case, may simply state that it affirms the IJ's decision for the reasons set forth in that decision."). The Petitioner's arguments on appeal are not sufficient, standing alone or viewed in totality with the underlying record, to meet her burden of establishing she married her spouse in good faith.

In her affidavits below, the Petitioner generally described starting a relationship A-A-J- and living with him at times but moving to shelters when he became aggressive, and she claimed that her intentions were genuine, but the relationship was untenable. Although on appeal she provides some detail about her thoughts prior to entering the marriage with A-A-J-, again describes his aggressive behavior, and reiterates her fear for her safety, she does not provide additional information sufficient to overcome the Director's concerns about her intentions at the inception of the marriage. The Petitioner states generally that they went out together before marrying, but she did not demonstrate her intent in entering the marriage or include details of events, mutual interests, or events prior to marriage. The letters of support from third parties that the Petitioner submits on appeal are general without specific details or observations of the Petitioner's relationship with A-A-J- leading to the marriage. The Petitioner has also not addressed on appeal the deficiencies identified by the Director concerning the reasons for the dismissal of the divorce proceedings, which she had claimed was because she wanted to reconcile. We further note that she has provided information on appeal about attempts to live together inconsistent with her initial affidavits, which state that she did not reside with A-A-J- after November 2016, and with her claim on motion that A-A-J- did move in with her in 2019.

The Petitioner's affidavits and other evidence do not provide sufficient probative details regarding their relationship to establish that she entered into her marriage in good faith. As the Petitioner has not overcome the basis of the Director's denial and established that she entered into marriage in good faith, she has not demonstrated that she is eligible for immigrant classification pursuant to VAWA.

ORDER: The appeal is dismissed.