



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

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

In Re: 21084153

Date: JUN. 21, 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), and the matter is before us on appeal. Upon de novo review, we will remand the appeal.

**I. LAW**

An individual who is the spouse of a U.S. citizen may self-petition for immigrant classification under VAWA if the individual demonstrates, among other requirements, that they entered into the qualifying marriage to the abusive U.S. citizen spouse in good faith and not for the primary purpose of circumventing the immigration laws. Section 204(a)(1)(A)(iii)(I)(aa) of the Act; 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. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). The Administrative Appeals Office (AAO) reviews 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 record reflects that the Petitioner, a native and citizen of Nigeria, married J-H-<sup>1</sup>, a U.S. citizen, in  2016. She filed the instant VAWA petition in August 2019 based on this marriage.

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<sup>1</sup> We use initials to protect the privacy of individuals.

In the record before the Director, the Petitioner stated that she met J-H- in June 2015. The Petitioner stated that she met J-H- at his friend's house party in [REDACTED]. In a statement submitted by the Petitioner in response to a request for evidence (RFE) issued by the Director, she stated that J-H- proposed to her on November 25, 2015, at J-H-'s brother's apartment, where the Petitioner claims they spent a lot of time together prior to the marriage. As a result of this statement, the Director's denial noted an inconsistency in the Petitioner's prior statements in the record. The Director noted that during the Petitioner's interview for her previously filed Form I-485, Application to Adjust Status to that of a Permanent Resident, she stated that the engagement occurred in December 2015, and that her statements "appear[ed] to be describing two different instances and it is not exactly clear when comparing [the Petitioner's] two sworn statements with one another." The result of the Director's noting of this discrepancy was discounting the remainder of the Petitioner's second affidavit, and the Director afforded limited weight to the affidavit and the details of her relationship with J-H- and their life together that were contained therein. However, as noted by the Petitioner in her appeal brief, she was not offered the opportunity to respond to this inconsistency prior to the Director issuing her decision.

The Director also discounted certain evidence, namely [REDACTED] bills, and claimed that the Petitioner did not address discrepancies noted in the RFE. However, in our review, we note that the Petitioner did address the [REDACTED] bills. The Petitioner's second affidavit noted that what she sent in was "what [she] printed online. It looks like [REDACTED] stopped putting a bar code above the names because [her] bill now doesn't have one. As for the markings on some of what [she submitted in response to the RFE], [her] attorney told [her] [her attorney] made them to highlight dates, [their] address, places both [their] names appeared." While the Petitioner did not submit additional documentary evidence to support this claim, we determine that the Director erred in asserting that the Petitioner provided no explanation for the discrepancy in her affidavit.

In assessing the affidavit submitted by R-O-, a friend of J-H- and the Petitioner, the Director stated that it was "helpful as he claims that he is friends with both [the Petitioner] and [her] spouse and that he was also in attendance at [her] wedding," but discounted the affidavit as it "lack[ed] evidentiary documentation" that the Petitioner entered into her relationship in good faith. While it is unclear what "evidentiary documentation" would be submitted by a third-party in VAWA petition proceedings, we note that R-O- stated that he heard, "several times about how much [J-H-] loved [the Petitioner's] tenacity and maturity to issues of life. And that [J-H-] loves [the Petitioner's] quiet nature and sense of humor plus [the Petitioner's] intelligence. With all that [J-H-] had been telling [him], [he] saw both of them and believed they both truly loved each other." R-O- goes on to state that he was present for the wedding ceremony "with 6 of [their] friends." We determine that the Director erred in stating that this affidavit "primarily talk[ed] about the abuse" and note that the affidavit did provide detail regarding the Petitioner and J-H-'s attitudes during their courtship. Further, the Director stated that R-O-'s affidavit did not contain "evidentiary documentation," which is not required, as any credible evidence will be considered, including "affidavits from individuals with personal knowledge of the relationship." 8 C.F.R. § 204.2(c)(2)(i), (vii).

We determine that the Director erred in not offering the Petitioner an opportunity to address the inconsistency regarding the date of her engagement to J-H-, and that the Director incorrectly stated that the Petitioner did not address the additional discrepancy with the [REDACTED] bills. Further, the Director's statement that a third-party affidavit did not contain "evidentiary documentation" and

“primarily talk[ed] about the abuse” was inaccurate and appears to raise the standard for what evidence would be considered. Remanding a matter is appropriate when the director does not fully explain the reasons for the denial so that the affected party has a fair opportunity to contest the decision and the AAO has an opportunity to conduct a meaningful appellate review. 8 C.F.R. § 103.3(a)(1)(i),(iii) (providing that the director’s decision must explain the specific reasons for denial and notify the affected party of appeal rights); *Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that the reasons for denying a motion must be clear to allow the affected party a meaningful opportunity to challenge the determination on appeal). While the Director provided accurate analysis of certain evidence submitted by the Petitioner, such as separate bills which listed the Petitioner and J-H- individually, we determine that the Director erred in her analysis of the evidence discussed above, and the reasons they were discounted were not adequately explained in order for us to conduct meaningful appellate review.

Accordingly, we will remand the matter to the Director for the issuance of a new decision consistent with the foregoing analysis.

**ORDER:** The decision of the Director is withdrawn. The matter is remanded to the Director of the Vermont Service Center for the entry of a new decision.