



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

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

In Re: 18108245

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 this matter to the Director for further proceedings consistent with this decision.

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, 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). 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, a native and citizen of Malawi, entered the United States in January 2001 on a visitor visa. She filed the instant VAWA petition in October 2018 based on a claim of battery and extreme cruelty by her U.S. citizen spouse, J-.¹ The Director denied the VAWA petition, determining that the Petitioner did not establish that she married J- in good faith. Specifically, the Director determined that apart from the claimed abuse, the Petitioner's affidavit lacked probative details regarding the couple's courtship, wedding ceremony, or memorable experiences in their married life and therefore were insufficient to establish the Petitioner's good faith intentions in marrying J-. The Director acknowledged the remaining relevant evidence in the record relating to the Petitioner's marital intentions, including affidavits from third parties, a bank statement, a utility bill, and photographs of the couple. However, the Director noted that the supporting affidavits were vague and offered no probative details, including about any interactions with the couple to give insight into the marital relationship; the submitted bank statement and utility bill were only in the Petitioner's name, were from outside the period during which the Petitioner claimed the couple resided, and did not reflect a co-mingling of the couple's financial responsibilities; and the photographs indicate only that the couple were together at certain times and did not otherwise reflect the Petitioner's marital intentions. Accordingly, the Director determined that the referenced supporting evidence was also insufficient to establish the Petitioner's good faith intentions in entering into the marriage.

On appeal, the Petitioner asserts that she provided extensive credible and probative evidence which the Director failed to consider, and she now provides a supplemental statement in which she provides additional substantive information regarding her relationship with J- and her marital intentions. In addition, she submits, among other evidence, affidavits from friends regarding her courtship with J- and their wedding, as well as a letter from her son describing his observations of the Petitioner's relationship with J-. The Petitioner contends that the new evidence provides additional details regarding the couple's courtship and her feelings while the couple were dating and became engaged, and demonstrates that her intentions in dating and entering the marriage with J- were genuine.

This new evidence on appeal is material as it directly relates to the Director's finding that the Petitioner had not provided sufficient, probative details and evidence that she married J- in good faith. As the Director has not had opportunity to review the new documents submitted on appeal, we will remand the matter to the Director to consider this evidence in the first instance and determine whether the Petitioner has satisfied the remaining eligibility requirements for immigrant classification under VAWA.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

¹ We use initials to protect the privacy of individuals.