



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

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

In Re: 16955444

Date: MAR. 30, 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 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 Abused Spouse or Child of U.S. Citizen (VAWA petition). On appeal, we determined that the Petitioner did not overcome the basis for the Director's denial. The Petitioner has filed a motion to reopen and reconsider our decision. Upon review, we will dismiss the motion.

## I. LAW

A motion to reopen must state new facts and be supported by documentary 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. *Id.* § 103.5(a)(3). We may grant a motion that satisfies these requirements and establishes eligibility for the benefit sought.

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates they entered into the marriage in good faith and were battered or subjected to extreme cruelty perpetrated by the spouse. Section 204(a)(1)(A)(iii)(I) of the Act. The petitioner must also show that they are eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, resided with the abusive spouse, and are a person of good moral character. Section 204(a)(1)(A)(iii)(II) 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 self-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

The Petitioner was admitted to the United States in B-1 nonimmigrant status in June 2014. He married his U.S. citizen spouse, K-D-,<sup>1</sup> in   2016. In March 2017, he filed the instant VAWA petition

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<sup>1</sup> Initials are used throughout this decision to protect the identity of the individual.

based on his marriage to K-D-. The Director denied the VAWA petition, concluding that the Petitioner had not demonstrated that he entered into his marriage with K-D- in good faith or that he had resided with her during their marriage.

In our previous decision dismissing the Petitioner's appeal, incorporated here by reference, we first determined that he did not establish by a preponderance of evidence that he entered into a good faith marriage with his U.S. citizen spouse. We noted the record lacked probative information regarding his marriage and relationship with K-D-. Specifically, in the Petitioner's psychological assessment he reported meeting K-D- at his aunt's home where she had been a renter, they dated and lived together for six months, they were married in [ ] 2016, and they separated in [ ] 2016. However, the Petitioner did not provide any substantive information regarding their initial meeting and courtship, proposal, engagement, joint residence, and any shared experiences and occasions to establish his good faith marital intention. Supporting letters from friends and the couple's landlord, and text messages between the couple did not provide any probative information regarding any shared experiences to demonstrate the Petitioner's good faith marital intention.

We also noted the record contained inconsistencies undermining the Petitioner's assertion of his good faith marital intention. In this regard, the Petitioner's psychological assessment and his statement indicated that the couple was residing at their claimed marital residence in Illinois at the time of their [ ] 2016 marriage, however K-D-'s paystub from the end of [ ] 2016 listed a Wisconsin address for her. Further, contrary to the Petitioner's assertion on his VAWA petition that he and K-D- resided together for less than two months from the end of [ ] 2016 to the middle of [ ] 2016, the psychological assessment indicated that he reported living with her for six months before their marriage. The Petitioner also submitted two leases from 2014 and 2016 for their marital residence, but neither lease listed his aunt as a lessee or resident. We acknowledged the remaining relevant documentary evidence in the record, but determined it was insufficient to establish the Petitioner's good faith marital intention, particularly given the inconsistencies in the record and the absence of probative testimony from the Petitioner.

We next determined that the Petitioner did not establish by a preponderance of the evidence that he resided with his U.S. citizen spouse during their marriage. In making this determination, we considered the absence of probative testimony from the Petitioner, statements from the Petitioner's friends and the couple's landlord, and the aforementioned unresolved inconsistencies.

On motion, the Petitioner has submitted additional statements from himself and a friend, and previously submitted documents. The Petitioner states that when he came to the United States, he moved in with his aunt, and K-D- also lived there at the time. He mentions that they dated for two and one-half years, they married in [ ] 2016, K-D- left their home on [ ] 2016, she went back and forth to their residence until January 2, 2017, and then they separated. The Petitioner details their marital difficulties due to K-D-'s drug and alcohol use, and her constant requests for money to support her drug use. In addition, the Petitioner describes threats K-D- made against him, her attempts to blackmail him, an assault and robbery he experienced by her friends, and the resulting depression he has experienced. Lastly, the Petitioner submits an undated credit card statement and a November 2020 auto insurance policy declaration with K-D-'s name and their marital address.

The Petitioner has not overcome our prior decision dismissing his appeal of the Director's denial. The Petitioner has not provided any new substantive information regarding the couple's initial meeting and courtship, proposal, engagement, joint residence, and any shared experiences and occasions to establish his good faith marital intention. He did not address why K-D-'s paystub from the end of [ ] 2016 listed a Wisconsin address for her or why neither lease from their marital residence listed his aunt as a lessee or resident. In addition, the Petitioner did not address why his VAWA petition provided that he and K-D- only resided together for less than two months from the end of [ ] 2016 to the middle of [ ] 2016, when he otherwise indicated that he lived with K-D- for six months before their marriage

Furthermore, the Petitioner's statement on motion that he dated K-D- for two and one-half years adds additional inconsistencies to the record. The Petitioner entered the United States in June 2014. If he dated K-D- for that amount of time, the couple would have been dating until approximately December 2016, which is after their [ ] 2016 date of marriage. Adding further inconsistencies are his statements on motion that K-D- left their home on [ ] 2016, she went back and forth until January 2, 2017, and then they separated. Previously, the Petitioner indicated that he and K-D- separated in [ ] 2016.

The November 2020 auto insurance policy declaration with K-D-'s name and their marital address adds another inconsistency to the record, as it indicates that the two were still residing together as of that date. Finally, the credit card statement provided on motion adds no probative value as it is undated. Considering the numerous inconsistencies in the record and the absence of probative testimony, the Petitioner has not established by a preponderance of the evidence that he entered into marriage with K-D- in good faith and resided with her during their marriage.

As the Petitioner has not submitted new evidence sufficient to establish that he entered into marriage in good faith and resided with his spouse during their marriage, he has not met the requirements for a motion to reopen. Furthermore, the Petitioner has not established that our prior decision was based on an incorrect application of law or policy. Therefore, he has not met the requirements for a motion to reconsider.

**ORDER:** The motion to reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.