U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 20648447

Date: MAY 17, 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 Abused Spouse or Child of U.S. Citizen (VAWA petition). The matter is now before us on appeal. On appeal, the Petitioner submits multiple statements asserting his eligibility. The Administrative Appeals Office reviews the questions in this matter *de novo*. *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 they demonstrate 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, a native of England and citizen of Nigeria, entered the United States with a B-2 nonimmigrant visa in January 2015, married E-M-,[1] a U.S. citizen, in [redacted] 2015, and filed his VAWA petition in June 2018. In his VAWA petition, the Petitioner claimed to have resided with E-M- from [redacted] 2015 to February 2016. The Director issued a request for evidence (RFE), specifically asking for evidence that the Petitioner's prior marriage to F-S-D- was legally terminated, which would establish that he was free to E-M-. In response to the RFE, the Petitioner submitted a decree nisi of dissolution of marriage, dated [redacted] 2015, and a certificate of decree absolute, dated [redacted] 2015,

[1] We use initials to protect individual identities.

allegedly issued by the [redacted] Judicial Division of the High Court of [redacted] for him and F-S-D-. The U.S. Consulate General in [redacted] Nigeria provided the Director with information related to the suit numbering system in Nigeria and indicated that the two documents the Petitioner provided lacked a legitimate suit number. Furthermore, a search of the [redacted] High Court's public online search of cases in litigation using the suit number for the two provided documents yielded no results. Therefore, the Director determined that the two documents appeared fraudulent and were not given any evidentiary weight, and concluded that as the Petitioner was not free to marry E-M-, he did not have a qualifying relationship with a U.S. citizen and was not eligible for immigrant classification based on a qualifying relationship.

Furthermore, the Director reviewed the Petitioner's initial affidavit, and found it to be insufficient to establish that he was battered or subject to extreme cruelty by E-M- and requested additional evidence of this requirement in the RFE. The Petitioner submitted another affidavit and the Director found that he did not establish he was battered or subject to extreme cruelty by E-M-.

On appeal, the Petitioner asserts that the Director erred in determining that his divorce decree is invalid and that he is in the "process of obtaining proper validation of the decree from the pertinent officers of the Court." The Petitioner therefore claims that he was single when he married E-M-. The Petitioner requested an extension of time to submit documentation due to the pandemic and procedural steps to be taken in Nigeria. The Petitioner did not specify how much time he needed to obtain the relevant document(s). However, the Petitioner filed his appeal on November 4, 2021, over six months ago, and we have not received any new evidence that he was legally divorced from F-S-D-.

Based on a *de novo* review of the record below, we adopt and affirm the Director's decision in part. *See, e.g.*, *Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994) (noting that the "independent review authority" of the Board of Immigration Appeals (Board) does not preclude adopting or affirming the decision below "in whole or in part, when [the Board is] in agreement with the reasoning and result of that decision"); *see also Chen v. INS*, 87 F.3d 5, 7-8 (1st Cir. 1996) (noting that, "[a]s a general proposition, if a reviewing tribunal decides that the facts and evaluative judgments prescinding from them have been adequately confronted and correctly resolved by" the decision below, "then the tribunal is free to simply adopt those findings" provided the tribunal's order reflects individualized attention to the case"). Specifically, the Petitioner did not establish by a preponderance of the evidence that he had a qualifying relationship with a U.S. citizen and was eligible for immigrant classification based on a qualifying relationship. The Director's decision thoroughly discussed relevant evidence submitted by the Petitioner related to his claimed divorce with F-S-D-, and his submission on appeal did not include any new evidence, aside from his brief, unsupported statements. As the Director correctly determined that the evidence submitted in support of the Petitioner's claim that he was divorced from F-S-D- was insufficient, and the Petitioner has not provided sufficient new evidence on appeal to overcome this finding, he has not established by a preponderance of the evidence that he had a qualifying relationship with a U.S. citizen and was eligible for immigrant classification based on a qualifying relationship. Therefore, the Petitioner has not established his eligibility for immigrant classification as an abused spouse of a U.S. citizen under VAWA.

As we determined that the Petitioner has not established by a preponderance of the evidence that he had a qualifying relationship with a U.S. citizen and was eligible for immigrant classification based on a qualifying relationship, we decline to reach and hereby reserve the Petitioner's arguments

regarding whether he was battered or subject to extreme cruelty by E-M-. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("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).

ORDER: The appeal is dismissed.