



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

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

In Re: 20152674

Date: MAY 24, 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. 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). 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, among other requirements, 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).

The Act bars approval of a VAWA petition if the petitioner entered into the marriage giving rise to the petition while in removal proceedings, unless the petitioner establishes by clear and convincing evidence that the marriage was entered into in good faith and not solely for immigration purposes. *See* sections 204(g) and 245(e)(3) of the Act, 8 U.S.C. §§ 1154(g) and 1255(e)(3) (outlining the restriction on, and exception to, marriages entered into while in removal proceedings); *see also* 8 C.F.R. § 204.2(c)(1)(iv) (providing that a self-petitioner “is required to comply with the provisions of . . . section 204(g)” of the Act). Clear and convincing evidence is that which, while “not necessarily conclusive, . . . will produce in the mind . . . a firm belief or conviction, or . . . that degree of proof which is more than a preponderance but less than beyond a reasonable doubt.” *Matter of Carrubba*, 11 I&N Dec. 914, 917 (BIA 1966).

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)(vii).

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). Outside of the context of section 204(g) and 243(e) of the Act, the burden of proof is on the petitioner to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The record reflects that the Petitioner, a native and citizen of Venezuela, was issued a Notice to Appear (NTA) and placed into removal proceedings in [] 2012. She married L-V-,¹ a U.S. citizen, in [] 2016.² In December 2017, the Petitioner filed the instant VAWA petition based on this marriage. With her VAWA petition, the Petitioner submitted a personal statement, letters from friends, coworkers and property manager, personal correspondence between her and L-V-, a bank account summary statement, and miscellaneous photographs. The Director determined that the evidence was insufficient to establish that the Petitioner entered into marriage with L-V- in good faith. Specifically, the Director noted that the Petitioner's personal statement and the letters from her friends, coworkers, and her property manager did not include sufficient probative details of their courtship, intent on getting married, or shared interests or activities. The Director considered the personal correspondence between the Petitioner and L-V-, but determined that it did not provide sufficient details into the dynamics of her relationship with L-V- or demonstrate that she entered into the marriage with L-V- in good faith. Additionally, the Director noted that the bank account summary statement did not indicate a commingling of resources or shared financial responsibilities because there was no balance or transaction history. Finally, the Director explained that the photographs captured one-time events and that they warranted limited evidentiary weight absent a thorough explanation of what the pictures captured, when they were taken, or other information relevant to her good faith intentions in marrying L-V-.

The Director issued a request for evidence (RFE) seeking additional evidence to establish that the Petitioner entered into marriage with L-V- in good faith. In response, the Petitioner submitted, among other things, a clearance letter from the [] Florida Sheriff's Office, a partial lease agreement, Bank of America and [] Credit Union bank statements, a copy of a Xfinity bill, a copy of a receipt from Papa Johns, a copy of a 2019 federal income tax return, two additional letters of support from friends, and photographs. The Director considered this evidence and denied the VAWA petition, concluding that the Petitioner did not submit sufficient evidence to establish, by a preponderance of the evidence, that she married L-V- in good faith. The Director further concluded that the Petitioner had not met her burden of establishing by clear and convincing evidence that she entered into marriage with L-V- in good faith, as required by section 204(g) and 243(e) of the Act, since the Petitioner married her spouse while in removal proceedings.

On appeal, the Petitioner reasserts her eligibility for the benefit sought. She argues that her supporting documents namely, her personal statement, bank statements, photographs, the approval of a Form

¹ Initials are used to protect the privacy of individuals.

² The Petitioner and her spouse divorced in [] 2017.

I-130, Petition for Alien Relative (Form I-130), filed by L-V- on her behalf,³ and letters of support prove that she entered into marriage with L-V- in good faith.

We adopt and affirm the Director's decision insofar as the Director determined the Petitioner has not established that she entered into marriage with L-V- in good faith. *See 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 and 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) ("we join eight of our sister circuits in ruling that the Board [of Immigration Appeals] need not write at length merely to repeat the [Immigration Judge's (IJ'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 argument on appeal that her previously submitted evidence proves she entered into marriage with L-V- in good faith is unpersuasive. The record reflects that the Director considered the Petitioner's personal statement, bank statement, Form I-130 approval, letters of support, and photographs and adequately explained why they were insufficient evidence of a good faith marriage. Specifically, the Director explained that the Petitioner's personal statement, beyond indicating that L-V- agreed to marry her as an "impromptu action," did not contain sufficient probative details regarding her courtship with L-V-, her intentions in marrying him, or their shared interests and activities. The Director additionally stated that the Bank of America statement was missing pages and reflected a zero balance. The Director further explained that the third-party affidavits were insufficiently probative of her intention to create a shared life with L-V-, as were photographs capturing one-time events without thorough explanations. Additionally, the Director noted that the Petitioner's Form I-130 was later denied or terminated by the DOS, the apartment lease agreement was unsigned and appeared to be missing several pages, and the utility bills were in the Petitioner's name only and dated almost four years after she divorced L-V-. The Director also emphasized that the receipt from Papa Johns and the [REDACTED] Credit Union statement were in the Petitioner's spouse's name only and did not provide insight into the dynamics of the marriage or reflect a commingling of resources ordinarily associated with a bona fide marriage. Finally, the Director noted that she was unable to determine, without corroborating evidence, whether the Petitioner filed her 2019 federal tax return with the Internal Revenue Service (IRS). The Applicant's generalized assertions on appeal, absent any additional evidence of her intentions in marrying L-V-, are not sufficient to overcome the deficiencies in the record. Upon *de novo* review, we agree with the Director that the Petitioner has not established that she entered into marriage with her U.S. citizen spouse in good faith by a preponderance of the evidence. Because the Petitioner has not established that she entered into his marriage with L-V- in good faith by a preponderance of the evidence, she necessarily cannot establish the same by clear and convincing evidence, as required by 204(g) and 245(e)(3) of the Act.

III. CONCLUSION

³ The record indicates that L-V- filed a Form I-130 on behalf of the Petitioner in May 2016, and it was approved in October 2016. As stated below, however, the Form I-130 was denied or terminated by the Department of State (DOS) in January 2020.

The Petitioner has not overcome the basis of the Director's decision on appeal and therefore has not demonstrated her eligibility for VAWA classification.

ORDER: The appeal is dismissed.