U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 18966851

Date: MAY 25, 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)(l)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(l)(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 asserts that he has established eligibility for the benefit sought. 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 VAWA petitioner must establish, among other requirements, that they entered into the qualifying marriage to the 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). 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). 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).

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).

II. ANALYSIS

The Petitioner, a native and citizen of India, was placed into removal proceedings in [redacted] 2010. He married his U.S. citizen spouse, X-L-,[1] in [redacted] 2016 while he was in removal proceedings. The Petitioner subsequently filed his VAWA petition in July 2018. The Director determined the Petitioner had not met his burden of establishing by clear and convincing evidence that he entered into marriage with X-L- in good faith, as required by section 204(g) since the Petitioner married his spouse while in removal proceedings. The Director also found that the Petitioner had not demonstrated his joint residence with X-L-.

The Director determined the Petitioner's affidavit and third party affidavits of support lacked probative details related to the Petitioner's claim of good faith marriage to X-L-, did not sufficiently detail the development of the Petitioner's relationship with X-L-, and failed to substantively describe shared experiences. The Director also found that the submitted photographs of the Petitioner and X-L- represent a few occasions where he spent time with his spouse and are not sufficient evidence to establish he entered into marriage with X-L- in good faith. The Director determined that the Petitioner's claim of good faith marriage to X-L- was not supported by sufficient credible documentary evidence, to include the documentation submitted with the initial VAWA petition and in response to a request for evidence.

On appeal, the Petitioner asserts, in pertinent part, the Director did not give enough weight to the submitted life insurance policy that indicates both spouses were intending to secure each other other's financial future and the joint auto insurance policy that reflects their intention to drive the same vehicle and assume joint liability. The Petitioner argues that the submitted bank statements, cell phone bills, income tax return, and lease are further evidence of their commingling of resources and shared financial responsibilities.

Upon *de novo* review, we adopt and affirm the Director's decision that the Petitioner has not established by clear and convincing evidence that he married X-L- in good faith. *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"). The Petitioner's arguments on appeal are not sufficient, standing alone or viewed in totality with the underlying record, to meet his burden of establishing he married X-L- in good faith.

The Petitioner's affidavit addresses his initial courtship with X-L- in a vague and general manner, describing how he met her in June 2016 at a night club, they fell in love with each other on their second

[1] Initials are used to protect the privacy of this individual.

date, and they became engaged in October 2016. The Petitioner's affidavit offers little insight into the relationship prior to and during their marriage and does not contain sufficient detail demonstrating his intent in entering marriage with X-L-. Instead, the affidavit predominantly focuses on the claimed abuse by X-L. The third party affidavits are similarly vague regarding the Petitioner's courtship and marriage to X-L-, except as they contain detail relating to claimed abuse. In whole, these affidavits do not sufficiently demonstrate the Petitioner's intention in entering marriage or the *bona fides* of his marital relationship. The Petitioner has not submitted additional evidence on appeal addressing his good faith intention to marry X-L-. We further concur with the Director that the Petitioner's photographs with X-L- represent several occasions where he spent time with his spouse and are not sufficient evidence to establish he entered into marriage with X-L- in good faith. Regarding the submitted life insurance and auto insurance policies, bank statements, cell phone bills, income tax return, and lease, the documentation reflects minimal use of shared accounts that are normally associated with a *bona fide* marriage or otherwise establish shared financial responsibilities.

As stated, because he entered into marriage while in immigration removal proceedings the Petitioner must establish by *clear and convincing evidence* that he entered into marriage with X-L- in good faith. As discussed above, considering the lack of relevant, probative evidence, the Petitioner has not met this burden.

Since the identified basis for denial is dispositive of this matter, we decline to reach and hereby reserve the Director's remaining ground for denial regarding the Petitioner's joint residence with X-L-.[2] *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.

[2] The Petitioner does not address this issue on appeal.