



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

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

In Re: 20275915

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)(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), concluding that the Petitioner did not establish that he had entered into the marriage in good faith or that he had been subjected to battery or extreme cruelty, as required. The matter is now before us on appeal. Upon *de novo* review, we will dismiss the appeal.

I. LAW

A petitioner who is the spouse or former spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in part, that they entered into the marriage with the U.S. citizen spouse in good faith and the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii) of the Act. Good faith requires that a petitioner has not "entered into the marriage to the abuser for the primary purpose of circumventing the immigration laws." 8 C.F.R. § 204.2(c)(1)(ix). Evidence that the marriage was entered into in good faith may include, but is not limited to: shared insurance policies, property leases, income tax forms, and bank accounts; testimony or other evidence regarding the couple's courtship, wedding ceremony, shared residence, and experiences together; birth certificates of children born to the relationship; police, medical, or court documents providing information about the relationship; or affidavits of persons with personal knowledge of the relationship. 8 C.F.R. § 204.2(c)(2)(vii).

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). Petitioners are "encouraged to submit primary evidence whenever possible," but may submit any relevant, credible evidence in order to establish eligibility. 8 C.F.R. § 204.2(c)(2)(i). USCIS determines, 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

In his initial affidavit submitted with his VAWA petition, the Petitioner explained that he came to the United States in May of 2015, met A-S-¹ at the beer and wine store where his cousin worked, and described that “[s]he was a nice girl and we started liking each other. She proposed [to] me on October 10, 2015 and I accepted her proposal.” The couple married on [REDACTED] 2016, and, according to the Petitioner, A-S-’s excessive drinking habit worsened. Among other things, he attested that “[i]t was her everyday habit to slap [him] and abuse [him],” and she took away all his money to spend on drinking and buying drugs. He described calling the police on her on [REDACTED] 2016.

The Director issued a request for evidence (RFE), describing inconsistencies and contradictory evidence in the record. For instance, the Director found, in part, that: the incident report from [REDACTED] 2016, indicated the Petitioner had no visible injuries, despite the Petitioner’s submission of photographs of his purported injuries; the incident report from [REDACTED] indicated that A-S- was returning home from the hospital while the Petitioner claimed she had been arrested and was released from custody that day; and third-party affidavits contradicted each other, the Petitioner’s statement, and the incident report. The Director found that the Petitioner’s claims that he was subject to battery or extreme cruelty were not credible and that it was questionable whether the Petitioner and A-S- had ever resided together. The Director sought additional evidence that the Petitioner married A-S- in good faith, that they resided together, and that she subjected him to battery or extreme cruelty. The Petitioner responded to the RFE with additional evidence.

The Director denied the VAWA petition, concluding that the Petitioner did not establish he had married A-S- in good faith, or that she had battered him or subjected him to extreme cruelty as claimed. Among other things, the Director found that the Petitioner’s initial affidavit lacked probative details and did not provide insight into the dynamics of their marriage. The Director further found that the Petitioner’s affidavit did not describe any mutual interests, the couple’s courtship, or the circumstances and events demonstrating their involvement prior to or during their marriage, and that his supplemental affidavit only referenced the discrepancies noted in the RFE. In addition, the Director found that the third-party affidavits in the record primarily addressed A-S-’s behavior towards the Petitioner and did not provide specific details regarding the couple’s relationship.

On appeal, the Petitioner submits a new affidavit and a copy of his medical records from a mental health counseling center.

After a careful review of the entire record, including the new evidence submitted on appeal, we find that the Petitioner has not met his burden of establishing he married A-S- in good faith. The medical records submitted on appeal are dated after the Petitioner married A-S- and, therefore, do not reflect the Petitioner’s intentions in entering the marriage. Although the Petitioner submits a new affidavit on appeal which contains some descriptions of the couple going out to dinner, watching movies, sightseeing, and going to a casino, we do not find that the Petitioner has provided probative, insightful details regarding his marital intentions. In addition, the Petitioner’s new statement contends that he and A-S- *began* their relationship in [REDACTED] 2016, one month *after* their marriage. Even assuming the Petitioner made a typographical error regarding the date the couple’s relationship began,

¹ We use initials to protect the identities of the individuals in this case.

he has nonetheless not provided specific details regarding their courtship, wedding ceremony, or shared residence to demonstrate his good faith entry into the marriage. Although the Director specified that the third-party affidavits in the record did not provide details regarding the couple's relationship, the Petitioner has not submitted any additional third-party statements on appeal. We further note that two of the affidavits in the record contain identical statements, indicating they were not independently written.²

Considering the totality of the evidence, we do not find that the Petitioner has met his burden of showing he entered into marriage with his U.S. citizen spouse in good faith, as section 204(a)(1)(A)(iii)(I)(aa) of the Act requires.³ The petition will remain denied.⁴

ORDER: The appeal is dismissed.

² For instance, the affidavits from R-S- and K-S- contain the same nine numbered paragraphs, attesting:

1. That I am a friend of [the Petitioner's] and I have known him since childhood from India.
2. When [the Petitioner] moved to New York, he worked with me at construction jobs as a helper.
3. [The Petitioner] moved to New York in May 2016 and prior to that he was living in Michigan where he met [A-S-].
4. [The Petitioner] told me that they were really happy together and eventually when she moved in with him in New York, they both decided to get married to each other. They got married on [redacted] 2016. . . .

³ We additionally note that the record appears to contain an inconsistency with respect to the timing of A-S-'s purported proposal to the Petitioner in October of 2015 and their claimed joint residency beginning in February of 2016. A printout of A-S-'s criminal history from the Michigan Department of Corrections in the record states that A-S- was convicted of possession of cocaine on [redacted] 2013, and that her "discharge date" was [redacted] 2016. Therefore, it appears that A-S- may have been incarcerated at the time she purportedly proposed to the Petitioner and was living with him. Because the Director made no mention of this document and we have ample reason to deny the petition for the reasons stated above, we have not considered this apparent inconsistency in our decision to dismiss the appeal.

⁴ As noted above, the Director also concluded that the Petitioner did not establish that A-S- battered him or subjected him to extreme cruelty, a separate basis for denial of the petition. See section 204(a)(1)(A)(iii)(I)(bb) of the Act; 8 C.F.R. § 204.2(c)(1)(i)(E). We need not reach this issue and, therefore, reserve it. Our reservation of this issue is not a stipulation that the Petitioner overcame this alternate ground of denial and should not be construed as such. Rather, there is no constructive purpose to addressing it because it cannot change the outcome of the appeal. 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).