U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 18868835

Date: MAY 26, 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). The matter is now 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

A petitioner who is the spouse of a United States citizen may self-petition for immigrant classification if the petitioner demonstrates that they entered into the marriage with a United States citizen spouse in good faith and that during the marriage, the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii)(I) of the Act; 8 C.F.R. § 204.2(c)(1)(i). In addition, petitioners must 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; 8 C.F.R. § 204.2(c)(1)(i).

Petitioners bear the burden of proof to demonstrate eligibility by a preponderance of evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). They may submit any credible evidence relevant to the VAWA petition for us to consider; however, we determine, in our sole discretion, the credibility of and the weight to give such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. ANALYSIS

A. Relevant Evidence and Procedural History

The Petitioner, a native and citizen of Nigeria, entered the United States with an F-1 student visa in December 2010, and married her U.S. citizen spouse, J-P-[1], in [redacted] 2014. The Petitioner claims

[1] We use initials to protect individual identities.

to have lived with J-P- at an address on [redacted] Lane in [redacted] Illinois, from August 2014 to November 2015. She filed her VAWA petition in July 2016. With the petition, the Petitioner submitted a personal statement; a Form G-325A, Biographic Information (Form G-325A); a lease agreement; a psychological evaluation; third-party affidavits from friends and acquaintances; tax records; bank statements; school records; utility bills; copies of driver's licenses; and photographs.

This evidence was determined by the Director to be insufficient to establish the Petitioner's eligibility, and a notice of intent to deny (NOID) was issued. In outlining the reasons for the issuance of the NOID, the Director highlighted, in pertinent part, discrepancies which were evident, transposed below, regarding the Petitioner's residence with J-P-.

As noted by the Director, the NOID read, in pertinent part:

> The landlord listed on the lease you submitted was contacted, and USCIS obtained a copy of your lease for [the [redacted] Lane property] for the time period beginning September 5, 2014 and ending on September 5, 2015. The lease obtained from the landlord is three pages long. Pages one and three are identical to the pages you submitted except the original lease does not list [J-P-] anywhere on the document and only contains your signature on the third page. The original lease shows you as the only tenant. Further, the second page of the original lease lists [O-A-], your daughter's father, as an occupant.

In response to the NOID, the Petitioner submitted a personal statement, a lease, a new psychological evaluation, letters, tax documents, and e-mails. In her personal statement, as relevant to her residence with J-P, she stated that she lived with him at the address in question from September 2014 to November 2015.[2] The Petitioner stated that she "believe[d]" O-A- used the address to "register for prometric exam" and to "receive mail" although he never resided at that address. She further stated that she "never fabricated any documents" and that the [redacted] Lane lease she submitted to document her time residing with J-P- was "authentic." She explained that the leasing office of the relevant property confirmed it was the same lease they had on file and that she was "awaiting a letter from . . . the landlord . . ." that she would submit to USCIS.[3]

The Director considered the evidence submitted and denied the VAWA petition, concluding in pertinent part that the Petitioner did not submit sufficient evidence to establish that she shared residence with J-P-. The Director highlighted that the record contained a rental application for the [redacted] Lane address signed by O-A- on August 22, 2014, which is the same date that the Petitioner signed the lease. The Director noted that, despite the Petitioner's explanation, it is unclear why O-A- would submit a rental application for an address where the Petitioner claimed he never resided. The Director further emphasized that the Petitioner did not concretely address or reasonably explain why the copy of the lease she submitted shows J-P-'s name on the tenant line as well as his signature when neither J-P-'s name nor signature are evident on the lease USCIS obtained directly from the landlord. As a result, the Director found that the record contained unresolved discrepancies that cast doubt on

[2] As provided for above, the Petitioner indicated on the VAWA petition that she began residing with J-P- at the [redacted] Lane property in August 2014, rather than September 2014. The Form G-325A submitted with VAWA petition indicated that she began living at this address in July 2014, rather than September 2014.

[3] The record contains no such documentation.

the credibility of the Petitioner's claims and impacted her burden of proof to establish eligibility by a preponderance of the evidence. The Director last noted that the remaining evidence submitted by the Petitioner did not provide specific details sufficient to establish her residence with J-P-.

On appeal, the Petitioner submits photocopies of previously provided documentation along with another personal statement. The Petitioner reasserts that the lease agreement for the [redacted] Lane property she submitted to USCIS is authentic, and that she contacted the leasing office and the receptionist "confirmed its validity . . . [s]tating they had the same thing on file." However, the Petitioner did not submit independent evidence from the leasing entity or agent confirming this assertion. Relatedly, the Petitioner provides that additional supporting evidence would be sent to USCIS within thirty days. As of this date, however, no new evidence has been received to supplement the record of proceeding. The only evidence the Petitioner provides on appeal are the aforementioned photocopies of previously provided documentation already considered by the Director and referenced in the denial decision as being insufficient evidence to establish the Petitioner's shared residence with J-P-.

Upon *de novo* review, we adopt and affirm the Director's decision regarding the residence requirement with the comments below. *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) ("[I]f a reviewing tribunal decides that the facts and evaluative judgments rescinding from them have been adequately confronted and correctly resolved by a trial judge or hearing officer, then the tribunal is free simply to adopt those findings" provided the tribunal's order reflects individualized attention to the case).

B. Shared Residence

The Petitioner has not established that she shared residence with her U.S. citizen spouse. A VAWA petitioner must establish, among other requirements, that they resided with the U.S. citizen spouse. Section 204(a)(1)(A)(iii)(II)(dd) of the Act. Evidence showing that the petitioner and the abusive spouse resided together may include employment records, utility receipts, school records, hospital or medical records, birth certificates of children, deeds, mortgages, rental records, insurance policies, affidavits, or any other type of relevant credible evidence of residency. 8 C.F.R. § 204.2(c)(2)(i), (iii).

We acknowledge the Petitioner's submission and the Director's review and consideration of bank statements, utility bills, and portions of tax documents showing the names of both J-P- and the Petitioner at the [redacted] Lane address. The Petitioner states that when she left J-P- she took whatever she could manage based on advice she received from others, and due to the passage of time and other circumstances she does not have additional evidence to show her joint residence with J-P-. Based on the limited evidence provided and the general lack of detail provided by the Petitioner regarding her joint residence with J-P-, combined with the other factors noted—particularly the lease agreement containing the various discrepancies identified by the Director, which have not been sufficiently resolved—the Petitioner has not met her burden of establishing that she resided with J-P-.

We acknowledge that a petitioner may face difficulties in obtaining documentary evidence in a domestic violence relationship and that the Petitioner has submitted some documentation demonstrating a joint bank account and utility bills listing both she and J-P- at a residence she contends they shared. However, the submitted evidence is not sufficient when considering the aforementioned discrepancies present in this matter.

Petitioners must demonstrate their eligibility by a preponderance of the evidence and, as indicated above, while any credible evidence will be considered in assessing whether a petitioner has met their burden to establish eligibility, U.S. Citizenship and Immigration Services has sole discretion to determine the credibility of and the weight given to such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i); *Matter of Chawathe*, 25 I&N Dec. at 375. The record does not support that the Petitioner shared residence with J-P- and on appeal she has not offered additional arguments or evidence sufficient to support her claims and/or to address the deficiencies and discrepancies identified in the Director's decision.

C. Remaining Eligibility Grounds

As the Petitioner's failure to establish by a preponderance of the evidence that she resided with J-P- is dispositive of her appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments on the Director's additional grounds for denial. *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). The Petitioner has not established her eligibility for immigrant classification pursuant to VAWA.

ORDER: The appeal is dismissed.