



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

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 18783882

Date: MAY 31, 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. On appeal, the Petitioner argues he has established eligibility for the benefit sought. The Administrative Appeals Office (AAO) 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 remand the matter to the Director for the issuance of a new decision.

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). In these proceedings, 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). 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).

II. ANALYSIS

The record reflects that the Petitioner, a citizen of India, married M-R-¹ a U.S. citizen, in 2016. In November 2017, he filed the instant VAWA petition based on this marriage. As supporting evidence, the Petitioner submitted a marriage certificate, photographs, statements from himself and

¹ We use initials to protect the privacy of individuals.

his former spouse, and letters from acquaintances indicating that they knew the Petitioner and his spouse during the marriage. Through a request for evidence (RFE), the Director informed the Petitioner that the record did not contain sufficient evidence demonstrating a good faith marriage and requested evidence establishing that the Petitioner resided with and entered into the marriage in good faith, such as documentation related to joint rental agreements, utility invoices, bank documentation showing shared accounts, and detailed affidavits of friends and family who could provide specific information verifying the relationship and cohabitation with his spouse. In response to the RFE, the Petitioner submitted a self-affidavit and a copy of a residential lease.

The Director denied the petition, determining that the Petitioner had not demonstrated that he entered into the marriage with M-R- in good faith. Specifically, the Director stated the following:

You stated in your self-affidavit, that you met M-R- at work, that she was a regular at the gas station. You stated that you went out bowling and to restaurants. You stated that you proposed on Thanksgiving Day, that you planned to marry on your birthday, but you ended up marrying six days later. In your statement, you primarily write of your spouse's behavior toward you. As presented, your statement lacks probative details and did not provide insight into the dynamics of your marriage. Your statement did not describe your mutual interests in details or circumstances and events demonstrating your involvement prior to or during the marriage that could assist in demonstrating your intent when you entered into the marriage.

The Director also noted that while the Petitioner submitted a lease agreement effective July 2016 through July 2020, he did not indicate in his petition an address or dates related to the couple's joint residence during the marriage.² The Director also highlighted that the Petitioner did not provide any evidence to suggest that he satisfied the lease agreement such as utility bills, rent receipts, or canceled checks.

On appeal, the Petitioner asserts that the Director did not adequately consider and address his 17-page self-affidavit, an affidavit by M-R-, and affidavits by third parties – all of which contain details regarding the establishment of the relationship with and marriage to M-R-, their activities, and their interactions with friends and relatives both prior to and after their marriage. Upon de novo review, we note that the evidence in the record, particularly the affidavits referenced above, does provide insight into the dynamics of the Petitioner's prior to or during the marriage that could assist in demonstrating the Petitioner's intent when he entered into the marriage. For example, in his self-affidavit, the Petitioner explained that he attended cookouts at M-R-'s father's house and took M-R-'s nephew trick-or-treating for Halloween. He also stated that M-R- attended temple with him, wore traditional Indian clothing when attending Indian special events, and spoke to his family in India.

Because the Director's decision does not reflect meaningful consideration of the above-mentioned evidence, we will remand the matter to the Director to redetermine whether the Petitioner has

² The Director also noted that the landlord's signature on the lease was illegible. On appeal, the Applicant submits a copy of a lease that bears the legible signature of the landlord.

established that he married M-R- in good faith and is otherwise eligible for immigrant classification under VAWA.³

ORDER: The decision of the Director is withdrawn. The matter is remanded to the Director for the issuance of a new decision consistent with the foregoing analysis.

³ We note here that the evidence in the record indicates that section 204(g) of the Act may apply to this matter as the Petitioner was in removal proceedings when he married M-R-.