U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 22819192

Date: NOV. 2, 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 the 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 record did not establish that the Petitioner resided with his U.S. citizen spouse and entered into the marriage in good faith. 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 VAWA petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates that they entered into marriage with their U.S. 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). The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *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 native and citizen of Georgia, last entered the United States in 2015 as a B-2 nonimmigrant visitor. He married his U.S. citizen spouse, S-H-,[1] in the United States in [redacted] 2018. The Petitioner filed his VAWA petition in January 2019 based on a claim of battery and extreme cruelty by S-H-. The Director denied the VAWA petition based on a determination that

[1] We use initials to protect privacy.

the Petitioner had not submitted sufficient evidence to meet his burden of establishing by a preponderance of the evidence that he resided jointly with S-H- and entered into the marriage in good faith.

An SIJ petitioner must demonstrate that they entered into marriage with their U.S. citizen spouse in good faith. Section 204(a)(1)(A)(iii)(I)(aa) 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).

On appeal, the Petitioner argues that he has provided the evidence that is available to him, which is limited due to his escape from S-H-'s abuse, and that it is enough to meet his burden. Upon *de novo* review, we will dismiss the appeal, and we adopt and affirm the Director's decision insofar as the Director determined the Petitioner has not established by a preponderance of the evidence that he married S-H- in good faith. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *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 IJ's [Immigration Judge'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 arguments and evidence on appeal are not sufficient, standing alone or viewed in totality with the underlying record, to meet his burden of showing that he entered into marriage with his U.S. citizen spouse in good faith.

The Petitioner previously submitted a statement in which he claimed that during a trip to the United States with friends, he met S-H- at a party in New Jersey. He stated that he approached S-H- and they had "immediate chemistry." He explained that their "spark was instant, and [they] started dating." Because of his relationship with S-H-, he canceled his travels from New Jersey to California and knew within five weeks of dating that he "had found the woman of [his] dreams, someone [he] wanted to share [his] future and kids with." After more than a month of dating, he proposed to S-H- because he wanted to spend the rest of his life with her, and she agreed. The Petitioner recalled that "those days were truly magical" and they "had a short ceremony surrounded by closest friends." He indicated that he and S-H- moved into a small apartment together after the wedding, and although they did not have much money, they were happy because they had each other. The Petitioner then focused the rest of his statement on his claims of abuse that occurred during the marriage. He noted that he left the shared apartment in September 2018 due to S-H-'s abuse and that it was "painful to face the reality that all [his] dreams about marriage and a family ha[d] disappeared." In further support of his claim of good faith marriage, the Petitioner submitted a psychological evaluation that closely mirrored the language in his personal statement, an unsigned letter from a nonprofit organization that helps immigrants, supporting letters, and photographs. As the Director correctly noted, the evidence the Petitioner provided lacked specific, detailed, probative information about his intention when entering into marriage with S-H- and their life together as spouses.

On appeal, the Petitioner argues that he cannot be required to submit specific pieces of evidence and that he has provided everything he has access to. As further support for his claim of good faith marriage, he submits notices he received from USCIS at the claimed shared address, a copy of a previously submitted cell phone bill, and statements from friends, most of whom previously submitted letters in support of the Petitioner's VAWA petition. His friend Z-Z- claims that the Petitioner introduced S-H- as his wife in [redacted] 2018 and that he visited them in their modest apartment. He repeats claims from a previously submitted letter that he hosted the Petitioner and S-H- at his apartment in Brooklyn for a weekend and took them out to dinner for S-H-'s birthday. Z-Z- notes that during their time together, he learned about S-H-'s food preferences, that the Petitioner and S-H- "had some disagreements," they planned to have children in the future, and the Petitioner "was more sentimental than [S-H-]." M-M- states that in the spring of 2018 the Petitioner invited her to his wedding, and although she was unable to attend "news of wedding was tremendous." She states that she later invited the Petitioner and S-H- to her home in New Jersey and observed that "[t]hey were just love birds." M-M- expressed that she was shocked when the Petitioner and S-H- broke up. G-G- submits a letter identical to the one he previously submitted, in which he noted that he helped the Petitioner and S-H- move into their apartment after they got married, had dinner with them, and noticed that they "seemed to care for each other." M-S- notes, as she did in her previous letter, that she and her husband met S-H- when the Petitioner first started dating her.[2] M-S- adds that she and her husband "attended their wedding ceremony and were among a very limited number of friends, it was a very intimate ceremony."

As mentioned above, although we must consider any credible evidence relevant to the VAWA petition and do not require specific documents to support the Petitioner's claim, 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 evidence submitted below and on appeal, when considered in its totality, is insufficient to establish that the Petitioner married S-H- in good faith. The Petitioner's personal statements continue to lack probative details about his courtship, marriage ceremony, and life together as spouses with S-H-. Although he explained how he first met S-H- and that he quickly determined that he wanted to marry her, he has not provided other specific information about the marriage ceremony and marital relationship aside from his claims of abuse. Furthermore, the timeline of the Petitioner's courtship with S-H- is not clear. The record reflects that he last entered the United States in 2015. He claims that during his trip, he met S-H- and started dating her and decided within five weeks that he wanted to spend his life with her. He provides a marriage certificate showing that they were married in [redacted] 2018. The record does not establish what occurred between his entry in 2015 and the marriage in 2018 or whether he and S-H- were dating during all or part of that time. Considered as a whole, the record lacks credible, probative evidence regarding the circumstances of the Petitioner's marriage with S-H-. Accordingly, the Petitioner has not overcome the Director's determination that he did not establish his good faith marriage, as section 204(a)(1)(A)(iii)(I)(aa) of the Act requires.

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[2] The record contains a discrepancy regarding when the Petitioner and S-H- began to live together. The Petitioner and S-H- were married on [redacted], 2018, and he indicated on his VAWA petition that they began to reside together on [redacted], 2018. In his statement in support of his VAWA petition, he claimed that "[r]ight after the wedding, [they] started renting an apartment . . . ." Similarly, his friend G-G- states that he helped them move into their apartment "when [they] got married." However, M-S- stated in her prior letter and again on appeal that she visited the Petitioner and S-H- at their shared apartment in [redacted] 2018 and "[a]t that point, [the Petitioner] and [S-H-] had just started dating." We will not reach the matter of the Petitioner's shared residence with S-H- in this decision, but we hereby reserve this issue.

Since the identified basis for denial is dispositive of this matter, we decline to reach and hereby reserve the Petitioner's arguments regarding whether he established by a preponderance of the evidence that he resided jointly with his spouse. *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.