U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 23152106

Date: NOV. 29, 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 (the Director) denied the Form 1-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), determining that the Petitioner did not establish by clear and convincing evidence that he entered his marriage in good faith and not to circumvent immigration laws. On appeal, the Petitioner asserts his eligibility for VAWA classification. We review 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 U.S. citizen may self-petition for immigrant classification if he demonstrates, among other requirements, that he entered into the marriage with the U.S. citizen spouse in good faith and was battered or subjected to extreme cruelty perpetrated by the U.S. citizen spouse. Section 204(a)(1)(A)(iii)(I) of the Act.

The Act bars approval of a VAWA petition if, while in removal proceedings, the petitioner entered into the marriage giving rise to the petition, unless the petitioner has resided outside the United States for a period of two years after the date of marriage or establishes by clear and convincing evidence that the marriage was entered into in good faith. *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 "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).

Acknowledging the limitations placed on petitioners in abusive relationships, 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, or bank accounts; testimony or other evidence regarding 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). Petitioners are "encouraged to submit primary evidence whenever possible," but may submit any credible evidence relevant to the VAWA petition in order to establish eligibility. 8 C.F.R. § 204.2(c)(2)(i). We determine, in our sole discretion, the credibility of and weight given to all of the evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. ANALYSIS

The Petitioner, a native and citizen of the United Kingdom, married his U.S. citizen spouse, P-R-, in [redacted] 2017, while the Petitioner was in removal proceedings.[1] The Petitioner filed his VAWA petition in May 2019. The Director denied the petition, concluding the Petitioner had not met his burden of establishing by clear and convincing evidence that he entered into marriage with P-R- in good faith, as required by section 204(g) since the Petitioner married his spouse while in removal proceedings.

On appeal, the Petitioner contends that much of the information included in his personal statements included with his VAWA petition and in response to the Director's request for evidence (RFE) were compiled during interviews with his prior attorney's paralegal, and the result was "disappointing and disorganized." In response to the Director's decision that his statements lacked details regarding his courtship with P-R-, the Petitioner states that he does "not court" and was "way past courtship" at the time he and P-R- first met. The Petitioner states that they shared interests and "have matching political views, and like the same shows on TV" and both liked to have pets. The Petitioner claims that he still is not sure why P-R- decided to marry him after many years of residing together, but explains that they "were comfortably living together, and many people live together especially nowadays without getting married. But [he] also feel[s] that God does not approve of people living in sin." The Petitioner conflates the issue of his potential ineligibility under Section 204(g) of the Act with the fact that, while in the custody of United States Immigration and Customs Enforcement (ICE), marrying P-R- "did not prevent [him] from being deported" and argues that the Director discussed his situation in order to put together different pieces of information into what appears to be a coherent thesis. He further argues that being married to P-R- "had absolutely no impact nor was it part of [his] preparation to negate the removal."

The Petitioner further claims that he and P-R- did not just live together as roommates, and that he wouldn't have lived with her for such a long period of time had he not cared for her. He discusses the various pets that they adopted, and notes that he previously provided copies of the leases where he and P-R- resided. Regarding the submission of tax return documents, the Petitioner states that he was providing those only to prove that he pays his taxes, and not to show that his marriage is genuine. He further claims that he filed as "married filing separately" "because that is what [he is] supposed to do." He also explains that he added P-R- to several of his credit card accounts because she had bad credit and could not obtain a checking account. In support of his claim that they shared additional economic bonds, the Petitioner explains that when P-R- purchased a trailer home, there were issues with the

[1] We use initials to protect the identity of individuals.

plumbing and mold in the home, and that paid for all the repairs himself even though he did not have ownership of the trailer.

We adopt and affirm the Director's decision. *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 on appeal are not sufficient, standing alone or viewed in totality with the underlying record, to meet his burden of establishing he married her spouse in good faith.[2] The Petitioner does not dispute the Director's findings that his personal statements were vague and general regarding his initial courtship with P-R-. Rather, the Petitioner asserts that due to his age, he did not court, and states that they had similar interests in politics, TV, and having pets, details which were acknowledged by the Director as being presented in his previous statements in the record. Further, the Petitioner does not provide a sufficient argument to address the Director's assessment of the timeline of his marriage with P-R-, aside from stating that his immigration situation and his marriage to P-R- were "parallel issues." The Petitioner states that he and P-R- first met and moved in together around 2009. He is subject to a removal order issued in 1985, and he was subsequently arrested by ICE in 2012.[3] Following that, he filed an Application for Stay of Deportation or Removal in 2017. The Application for Stay of Deportation or Removal was denied on [redacted] 2017, and he then married P-R- on [redacted] 2017.[4] The Petitioner asserts that he has demonstrated that his "relationship was genuine and that [their] marriage was the logical culmination of [their] lengthy years spent "lovingly" together." While the Petitioner has submitted extensive evidence that he and P-R- resided together for approximately 10 years and has stated that he and P-R- shared interests and costs related to their housing, we do not find that he has established that his immigration status was merely a "parallel issue." As the Petitioner entered into his marriage while in immigration removal proceedings, he must establish by *clear and convincing evidence* that he entered into marriage with P-R- in good faith. The Petitioner has not overcome the basis of the Director's denial and has not demonstrated he met this burden on appeal.

ORDER: The appeal is dismissed.

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[2] We note an error in the Director's assessment of the Last Will and Testament (will) submitted by the Petitioner in response to the RFE. The Director's decision stated that the will stipulated that his estate be left to C-C- and M-M-, and therefore would be given limited evidentiary weight in considering if the Petitioner married P-R- in good faith. As highlighted by the Petitioner on appeal, the will also named P-R- as an Executor and stipulated that the "residue" of his estate be given to P-R- "for their own use absolutely." However, we still determine that the Petitioner has not met his burden in establishing by clear and convincing evidence that he married P-R- in good faith.

[3] A non-citizen subject to a removal order who has not departed the United States in compliance with the order remains in removal proceedings and subject to section 204(g) of the Act. 8 C.F.R. § 245.1(c)(8)(ii)(A).

[4] We additionally note, while not included in the Director's decision, that P-R- filed a Form I-130, Petition for Alien Relative, which was received by USCIS on January 4, 2018. The filing of the Form I-130 raises additional questions regarding the timeline of the Petitioner's marriage as it was filed [redacted] weeks after his marriage to P-R-, which was 4 days after his Application for Stay of Deportation or Removal was denied.