U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 25573116

Date: APR. 4, 2023

Motion on Administrative Appeals Office Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Abused Spouse of U.S. Citizen or Lawful Permanent Resident)

The Petitioner, a citizen and national of Jordan, seeks immigrant classification as an abused spouse of a U.S. citizen. *See* Immigration and Nationality Act (the Act) section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition as an immediate relative rather than remain with or rely upon an abuser to secure immigration benefits.

The Director of the Vermont Service Center denied the petition, concluding that the record did not establish by clear and convincing evidence that the Petitioner married his spouse in good faith. On appeal, we agreed with the decision of the Director that the Petitioner had not met his burden under the heightened standard of proof and that his personal statement lacked the probative detail necessary to establish his intent in marrying his ex-spouse. The matter is now before us on motion to reconsider.[1] 8 C.F.R. § 103.5(a)(3).

A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and establishes eligibility for the benefit sought.

The Petitioner married S-B-M-[2], a U.S. citizen, while in removal proceedings and filed his VAWA petition based on that relationship. The Act bars approval of a VAWA petition if the petitioner entered the marriage giving rise to the petition while in removal proceedings, unless the petitioner establishes by clear and convincing evidence that the marriage was entered into in good faith and not solely for immigration purposes. *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

[1] We note that while the brief submitted with the motion indicates that it is a motion to reopen and reconsider, the form I-290B Notice of Appeal or Motion is only marked as a motion to reconsider under part 2, and no new evidence or facts were provided to warrant review as a motion to reopen.

[2] We use initials to protect the privacy of individuals.

which, while "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). To satisfy their burden, petitioners may submit any credible evidence for us to consider in our review. 8 C.F.R. § 204.2(c)(2)(i). However, although we must consider any credible evidence relevant to a VAWA petition, we determine, in our sole discretion, the weight to give such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). Upon review, we will dismiss the motion.

On motion, the Petitioner submits a brief and argues that the emergency contact form for his stepson's school, tax documents, joint bank account statements, letters of support from friends, and joint bills submitted with his petition are sufficient to establish his intent in entering his relationship with his ex-spouse under the clear and convincing evidence standard. The Petitioner also states that, absent derogatory information regarding his marriage to S-B-M-, he has met his burden of proof and demonstrated his intent in marrying his ex-spouse. We find that, considering the evidence collectively and the arguments made on appeal, we correctly determined that the Petitioner did not meet the clear and convincing standard of evidence required under section 204(g) of the Act. In our prior decision we emphasized the limited amount of information the Petitioner provided in his personal statement regarding his courtship and relationship with his ex-spouse beyond the claimed abuse. We further highlighted that the evidence of joint financial responsibilities is from a small period of time in what was a 6-year marriage and is therefore not persuasive evidence of the Petitioner's intent in entering the marriage. The Petitioner's brief on motion fails to establish that we erred as a matter of law or policy in our analysis of the available evidence. Absent probative details of his motivation in entering his marriage with S-B-M-, the documentation provided lacks sufficient context to establish by clear and convincing evidence that his marriage was not for the sole purpose of obtaining an immigration benefit, as required.

The Petitioner has not established that we erred as a matter of law or policy in reaching our prior decision. Therefore, he has not established the requirements of a motion to reconsider. Accordingly, the motion to reconsider is dismissed.

ORDER: The motion to reconsider is dismissed.