U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 25531043

Date: APR. 4, 2023

Appeal of Vermont Service Center Decision

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

The Petitioner 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 Petitioner did not establish that she resided with her U.S. citizen spouse or that she entered her marriage with the U.S. citizen in good faith. In the decision, the Director identified significant discrepancies in the evidence provided in support of the VAWA petition and information from the Texas Health and Human Services Commission (THHSC), casting doubt on the Petitioner's statements regarding her relationship with her U.S. citizen spouse. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review 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 dismiss the appeal.

On appeal, the Petitioner reasserts that she has met her burden of proof in establishing that she resided with D-M-[1] and that she entered the marriage in good faith. To support her assertion, she provides copies of checks made out to her spouse from a trucking company and a personal statement. Upon review, the evidence submitted on appeal does not overcome the Director's determinations. The Director correctly evaluated the available evidence and considered the assertions of the Petitioner prior to finding that she did not meet her burden of proof in establishing that she resided with her U.S. citizen spouse We adopt and affirm the Director's decision relating to the joint residence requirement under VAWA. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

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

The records from THHSC reveal that the Petitioner did not include her spouse on her request for public benefits and claimed to be the sole adult residing with three children. The Petitioner states that her spouse was a truck driver and absent from their marital residence when she applied for benefits. The Petitioner's choice not to include her spouse as a household member when applying for public benefits casts doubt on her assertion that she and D-M- resided with one another. In addition, the Petitioner again claims that her spouse's poor rental history made it so that he could not be added to her lease and that during the early days of their marriage she maintained a residence separate from her spouse but would visit him on weekends. The Petitioner also claims that while the affidavits from her friends were short, they provided the necessary information to establish joint residence. The personal statement of the Petitioner provided on appeal does not overcome the discrepancies involving joint residence identified by the Director. The Petitioner also submitted copies of personal checks from a trucking company made out to D-M- as evidence of his employment. However, a review of the available Chase Bank statements for the same time period do not reveal corresponding deposits into their claimed joint account. After a complete review of the record, including the arguments made on appeal, we find that the Petitioner has not met her burden of proof to establish that she resided with her U.S. citizen spouse, as required.

Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding the Director's finding that the marriage between the Petitioner and D-M- was not entered into in good faith. *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 that she resided with her U.S. citizen spouse as required for VAWA classification under section 204(a)(1)(A)(iii)(II)(dd) of the Act. The petition will remain denied.

ORDER: The appeal is dismissed.