U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 24715886

Date: APR. 6, 2023

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. 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, 376 (AAO 2010). The Administrative Appeals Office 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 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, in part, that he was in a qualifying relationship as the spouse of a U.S. citizen, is eligible for immigrant classification based on this qualifying relationship, entered into the marriage with the U.S. citizen spouse in good faith and was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(l)(A)(i)-(iii) of the Act. The petition cannot be approved if the petitioner 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); *see also* 3 *USCIS Policy Manual* D.2(C), https://www.uscis.gov/policy-manual (explaining, in policy guidance, that the self-petitioning spouse must show that at the time of the marriage, they intended to establish a life together with the U.S. citizen spouse).

Evidence showing that the petitioner and the abusive spouse resided together may include employment records, utility receipts, school records, hospital or medical records, birth certificates of children, deeds, mortgages, rental records, insurance policies, affidavits, or any other type of relevant credible evidence of residency. 8 C.F.R. § 204.2(c)(2)(i),(iii).

U.S. Citizenship and Immigration Services (USCIS) shall consider any credible evidence relevant to the VAWA petition; however, the definition of what evidence is credible and the weight that USCIS

gives such evidence lies within USCIS' sole discretion. Section 204(a)(l)(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 Jordan, married S-P-,[1] a U.S. citizen, in [redacted] 2014, in a civil ceremony. He filed the instant VAWA petition in August 2017 based on the marriage. As evidence of his shared residence, the Petitioner submitted an uncertified 2016 tax return and a lease. The Director noted that the tax return was insufficient to demonstrate that he resided with his spouse and that he entered the marriage in good faith. The Director also noted the Petitioner did not establish that the lease was satisfied because there were no utility bills, rent receipts, or cancelled checks associated with the address. The Director acknowledged an assessment from a licensed clinical professional counselor but explained that the assessment did not state that the Petitioner reported any specific incidents of abuse or extreme cruelty committed by S-P-. Additionally, the Director noted that the Petitioner did not submit any evidence to establish good moral character.

The Director issued a request for evidence (RFE) seeking additional documentation that the Petitioner and S-P- shared a residence, was subjected to battery and/or extreme cruelty, and was a person of good moral character. To satisfy the residence, good faith marriage, and battery and/or extreme cruelty requirements, the Petitioner submitted: his affidavit, a statement from his friend K-K-,[2] an automobile insurance policy, and a bank account agreement. To satisfy the good moral character requirement, he submitted: a police clearance letter from the City of [redacted] Indiana, a letter from [redacted] Association, and uncertified federal income tax returns for 2017 and 2018. After reviewing the evidence, the Director denied the petition, concluding the Petitioner did not establish joint residence, a good faith marriage, or battery and/or extreme cruelty.

In denying the petition, the Director noted that the marriage certificate listed the Petitioner's residence as [redacted] and S-P- is listed as residing at [redacted][3] [redacted]. The Director also noted that the marriage certificate on its own did not provide insight into the dynamics of the relationship prior to or after the marriage, and was insufficient to establish a shared residence since both parties were living at different locations at the time they entered into the marriage. Thus, the Director determined the marriage certificate was insufficient to establish joint residence or the Petitioner's intent in entering the marriage.

The Petitioner was listed as "head of household" on the 2016 tax return, and did not include S-P-.[4] Thus, the Director determined the 2016 tax return was insufficient to establish that the Petitioner resided with S-P- and entered into the marriage in good faith. Similarly, the 2017 tax return covered a period when the Petitioner was already divorced from S-P-.[5]

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[1] Initials are used to protect the individual's privacy.

[2] The Director concluded that K-K-'s statement did not describe any specific instances of abuse that could establish that the Petitioner was subjected to battery and/or extreme cruelty.

[3] The Director erroneously listed the address as [redacted] when the address was [redacted]

[4] The Petitioner listed his three sons as dependents, and reflected a residence in [redacted] Indiana.

[5] In January 2016, the [redacted] Court Civil Division, Domestic Relations Court sitting in [redacted] Indiana issued a Decree of Dissolution of Marriage. In the Decree, the Court found that the Petitioner and S-P- were "separated by statute on [redacted] 2015."

The lease for [redacted] was signed in December 2013 by both the Petitioner and S-P- and although it was signed before applying for the marriage license on [redacted] 2014, the Petitioner and S-P- listed separate addresses on the marriage license. Moreover, the Petitioner did not provide any evidence to suggest this lease was satisfied, such as utility bills, rent receipts, or cancelled checks associated with the address. The Petitioner explained that he never lived with S-P- because he was "waiting for a religious ceremony."

The Petitioner submitted an application to open a bank account with First Merchants Bank, N.A. However, he did not submit any evidence to indicate that the account was opened or that he and S-P- used the account to maintain household responsibilities. The auto insurance policy issued in July 2015 to the Petitioner and S-P- listed [redacted] as the mailing address. However, because the Petitioner stated that he did not reside with S-P-, the Director determined that the auto insurance policy was insufficient to establish shared residence. In the end, the Director concluded that the Petitioner did not submit satisfactory evidence to establish joint residence or a good faith marriage.

On appeal, the Petitioner contends that the Director inadequately evaluated and weighed his previously submitted evidence of his intention to share a residence with S-P- after the religious ceremony. The Petitioner further argues that S-P- reneged on the religious ceremony which postponed their joint residence. He also notes that the assessment includes a discussion of his intention to reside with S-P.

Upon de novo review, we adopt and affirm the Director's decision insofar as the Director determined the Petitioner did not establish that he shared a residence with S-P-. *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 U.S. Courts of Appeals in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case). Upon review of the record, the arguments made by the Petitioner on appeal are insufficient to establish his joint residence with S-P-.

We acknowledge the Petitioner's contention on appeal that he did not want to reside with S-P- until after the religious ceremony. However, the assessment and his statement both indicate that the religious ceremony occurred at a mosque after S-P-, on her own, made all the arrangements with the imam.[6] But, the Petitioner has not explained why he did not reside with S-P- after the religious ceremony was performed. The Petitioner further claims that he submitted detailed and credible primary and secondary evidence of his good faith marriage and joint residence sufficient to meet the preponderance of the evidence standard. To support his claim, in the brief, the Petitioner lists evidence that he purportedly submitted. However, upon review, the listed evidence is not present in the record, and appears to relate to other proceedings. Therefore, contrary to the Petitioner's assertions, he has not submitted sufficient evidence to meet the preponderance of the evidence standard.

In sum, the Petitioner has not provided consistent and credible information regarding his shared residence with S-P-, information that the Director noted was lacking in the record below. The Petitioner's assertions on appeal regarding the sufficiency of his evidence, absent any additional

[6] The Petitioner did not provide a date for the religious ceremony.

probative and consistent evidence of his shared residence with S-P-, are insufficient to overcome the deficiencies in the record. As a result, the Petitioner has not established by a preponderance of the evidence that he shared a residence with his U.S. citizen spouse.[7] Consequently, the Petitioner has not demonstrated that he is eligible for immigrant classification under VAWA.

ORDER: The appeal is dismissed.

[7] Because the identified basis for denial is dispositive of this matter, we decline to reach and hereby reserve the Director's remaining grounds for denial. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (noting that "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).