



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 28984790

Date: DEC. 13, 2023

Motion on Administrative Appeals Office Decision

Form I-360, Petition for 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 revoked the approval of the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), and we dismissed the Petitioner's subsequent appeal, concluding that the Petitioner is subject to section 204(c) of the Act and ineligible for immigrant classification based on his previous marriage. The matter is now before us on a motion to reconsider. On motion, the Petitioner asserts again that the record demonstrates his eligibility for the benefit sought. In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon review, we will dismiss the motion.

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or policy. 8 C.F.R. § 103.5(a)(3). The motion to reconsider must also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. *Id.* We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification under VAWA if the petitioner demonstrates, among other requirements, that they entered into the marriage with the U.S. citizen spouse in good faith. Section 204(a)(1)(A)(iii)(I)(aa) of the Act; 8 C.F.R. § 204.2(c)(1)(ix). However, U.S. Citizenship and Immigration Services (USCIS) will not approve a visa petition if the petitioner previously was accorded, or sought to be accorded, immediate relative status as the spouse of a U.S. citizen by attempting, conspiring, or entering into a marriage for the purpose of evading the immigration laws. Section 204(c) of the Act, 8 U.S.C. § 1154(c). For the fraudulent marriage prohibition to apply, the record must contain "substantial and probative" evidence of such an attempt or conspiracy, regardless of whether the alien received a benefit. 8 C.F.R. § 204.2(a)(1)(ii).

The Petitioner, a citizen of India, filed his VAWA petition in June 2010 based on his marriage to his U.S. citizen spouse. As discussed in our prior decision dismissing the Petitioner's appeal, and

incorporated here by reference, the Director revoked the approval of the VAWA petition, concluding that substantial and probative evidence in the record demonstrated that the Petitioner entered into a prior marriage with S-G- for the purpose of evading immigration laws, approval of Form I-360 was prohibited under INA 204(c), and there was good and sufficient cause to revoke the prior approval. The Director observed that an administrative investigation revealed multiple Form I-130, Petition for Alien Relative (Form I-130), petitions were submitted using identity documents belonging to S-G-, and that she gave a sworn statement admitting to providing the documents for a fraudulent marriage to another individual, but attesting that she never met, married, or petitioned for the Petitioner. The Director noted that S-G-'s testimony was credited because it was consistent with investigative records.

On appeal, the Petitioner argued that the Director's decision did not properly assess his case according to the standards articulated by the Board of Immigration Appeals in *Matter of P. Singh*, 27 I&N Dec. 598 (BIA 2019), and erred by discrediting his testimony while crediting the testimony his ex-spouse, S-G-. We concluded that the Director's revocation of the Petitioner's VAWA petition was based on good and sufficient cause. We acknowledged the Petitioner's contention that S-G- is unreliable as she appears unable to recall certain detail. However, we noted that the record reflects a USCIS investigation revealed multiple Form I-130 petitions were filed with S-G- identified as the petitioning spouse, the Petitioner's file contains a copy of a birth certificate and social security card, submitted with the Form I-130 filed on the Petitioner's behalf, which S-G- testified she provided for another fraudulent petition, and when S-G- was shown a Form I-130 bearing her name and filed on the Petitioner's behalf, she claimed it was not signed or submitted by her. We also addressed the Petitioner's assertion that the Director did not explain how S-G-'s testimony was credited over his and noted that in its 2020 decision, the Director explained that S-G-'s testimony was credited because it was consistent with USCIS investigative records regarding the use of her identity documents in multiple Form I-130 petitions. We concluded that the record contains substantial and probative evidence of marriage fraud, and as such, the Petitioner is subject to section 204(c) of the Act and ineligible for immigrant classification pursuant to VAWA.

On motion, the Petitioner argues that we did not prove, through substantial and probative evidence, that his marriage to S-G- was a sham, as required by *Matter of P. Singh*. The Petitioner claims that the revocation was predicated on evidence that was not in his file at the time of the decision, contrary to *Matter of Tawfik*, 20 I&N Dec. 166 (BIA 1990), and based purely on the words of a known and proven con artist, S-G-. The Petitioner contends that USCIS has never provided documentation or other evidence from his file directly connecting him to S-G-'s fraud. He explains that the fact that S-G- married multiple men does not *de facto* mean that her relationship with the Petitioner was entered into fraudulently. In fact, if S-G- entered numerous other marriages before or after her marriage to the Petitioner, it would not in any way affect that his intent at the time that he married S-G- was to express his commitment to a woman he met, courted, and fell in love with. Further, the Petitioner indicates that S-G- could not account for many of the details of her life, including her marriages, which demonstrates that "she is both a liar and a crook," but does not in and of itself discredit the Petitioner's belief that his marriage to S-G- was real and that he entered it with good intentions. The Petitioner points out that S-G-'s statements to USCIS were made only after she was confronted with her fraud, which the Director then cited as lining up with the facts presented to her by USCIS. The Petitioner notes that although S-G- provided information when confronted by government agents and faced with the possibility of criminal penalties, her testimony, including admissions to a pattern of criminal behavior, yielded no criminal charges against her. The Petitioner further alleges that S-G-'s recollections of never having met

the Petitioner contradict actual evidence provided to USCIS, such as her presence to apply for and sign a marriage license and the judgment of divorce entered against her.

The Petitioner reiterates that he supplied testimony and physical evidence that his marriage to S-G- was *bona fide*, including the marriage license and judgment of divorce, both of which required her presence and cooperation. He further reiterates that he was able to account for his history with S-G-, as well as the reason for the dissolution of his marriage, and there is no information or evidence in the record to contradict his assertion that his marriage to S-G- was *bona fide*. The Petitioner also notes that the Form I-130 filed on his behalf by S-G- and his Form I-485, Application to Register Permanent Residence or Adjust Status (Form I-485), “were withdrawn upon the dissolution of [their] marriage” and he did not actually receive any immigration benefit from his first marriage. The Petitioner claims that the fact that S-G-’s Form I-130 petition and his Form I-485 were withdrawn “merits attention” as he could have easily remained in his marriage “on paper” in order to receive benefits had he entered the marriage with S-G- only for that purpose. The Petitioner asserts that “the fact that he did not go forward with those applications when he could no longer validly qualify as the spouse of a [U.S.] citizen suggests that he . . . believed that he was in a *bona fide* marriage when he applied for those benefits and was following the law as intended” and it would be unreasonable to suggest that he knowingly and willfully engaged in fraud but did not follow through to enjoy the fruits of that labor.

Upon review, the Petitioner claims that the record lacks substantial and probative evidence of marriage fraud and makes similar arguments as those previously addressed on appeal. First, while the Petitioner references *Matter of Tawfik* and claims that USCIS has never provided documentation or other evidence from his file directly connecting him to S-G-’s fraud, we addressed this issue on appeal and specified that the Notice of Intent to Revoke (NOIR) and the Director’s 2020 decision clarified that S-G- was shown a Form I-130 bearing her name and filed on the Petitioner’s behalf and she claimed it was not signed or submitted by her. While we acknowledge the Petitioner’s contention that S-G-’s marriages to multiple men before and after him does not *de facto* mean that her relationship with the Petitioner was entered into fraudulently, her admission to USCIS officers specifically indicating that she did not sign or submit the Form I-130 filed on his behalf is direct evidence from his file indicating marriage fraud. Second, the Petitioner again questions whether S-G-’s statement was credible, particularly over his own, and we indicated on appeal that the Director’s 2020 decision specifically explained that S-G-’s testimony was credited because it was consistent with USCIS investigative records regarding the use of her identity documents for multiple Form I-130 petitions. The Petitioner’s suggestion that S-G-’s sworn statement to USCIS officers regarding their specific marriage was not credible because it was made after she had been confronted with her fraud is misplaced. USCIS officers interviewed S-G- where she voluntarily testified that she was involved in a fraudulent marriage with another individual and, in exchange for money, had provided her identification documents to a third party who may have used them in a marriage fraud scheme. She further attested that she had never met the Petitioner, the Form I-130 filed on his behalf did not bear her actual signature, and she did not file the Form I-130 with USCIS. Regardless of whether S-G- had been confronted with evidence that she had committed fraud, her sworn statement to USCIS officers remains consistent with the investigative record. Further, the Petitioner’s assertion that S-G-’s presence to apply for and sign a marriage license and later at the divorce hearing contradicts her statement to USCIS officers of never having met him, even if true, still does not substantiate that the marriage was to establish a life together and not for the sole purpose of obtaining an immigration benefit, as discussed on appeal.

Third, while the Petitioner reasserts on motion that he entered into the marriage in good faith, he has not presented any evidence to support this. The Form I-130 submitted on his behalf did not include supporting evidence of the relationship beyond the marriage certificate and the Petitioner's affidavits in the record did not offer any detail regarding his relationship with S-G- and his intent at the time of marriage given that he contends he fell in love with S-G- and he married her to establish a life with her rather than to obtain an immigration benefit. Finally, the Petitioner's contention that the Form I-130 filed on his behalf by S-G- and his Form I-485 were withdrawn upon the dissolution of their marriage and merits consideration to demonstrate that he believed he was in a *bona fide* marriage, is incorrect. In fact, the NOIR and the Director's 2020 decision specifically recognized and informed the Petitioner that the Form I-130 and Form I-485 had been denied in November 2005 for abandonment because he and S-G- failed to appear for their interview at the USCIS New York, New York Field Office.

In determining whether there is substantial and probative evidence of marriage fraud, we consider "the nature, quality, quantity, and credibility of the evidence in the record. . . in its totality." *Matter of P. Singh, supra* at 610. Here, the Petitioner has provided insufficient probative evidence to overcome S-G-'s sworn statement to USCIS officers and related information concerning the use of her identity documents to file fraudulent Form I-130 petitions. The record, in its totality, contains substantial and probative evidence of marriage fraud. As such, the Petitioner is subject to section 204(c) of the Act and ineligible for immigrant classification pursuant to VAWA. Consequently, the Petitioner has not established legal error in our determination that the Director had good and sufficient cause to revoke the approval of his VAWA petition.

**ORDER:** The motion to reconsider is dismissed.