



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

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

In Re: 29430197

Date: DEC. 22, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse of a Lawful Permanent Resident

The Petitioner seeks immigrant classification as an abused spouse of a lawful permanent resident (LPR) under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(B)(ii). The Director of the Vermont Service Center denied the Form I-360, Petition for Abused Spouse of an LPR (VAWA petition) concluding that the record did not establish the Petitioner entered into a good faith marriage or that the Petitioner and her spouse shared a joint residence during the qualifying relationship. On appeal, the Petitioner submits additional evidence and asserts that she has established eligibility for the benefit sought.

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.

## I. LAW

A VAWA petitioner must establish, among other requirements, that they resided with the LPR spouse. Section 204(a)(1)(B)(ii)(II)(dd) of the Act. Section 101(a)(33) of the Act provides that, as used in the Act, “[t]he term ‘residence’ means the place of general abode . . . [a person’s] principal, actual dwelling place in fact, without regard to intent.” 8 U.S.C. § 1101(a)(33). Although there is no requirement that a VAWA petitioner reside with their abuser for any particular length of time, a petitioner must show that they did, in fact, reside together. Section 204(a)(1)(A)(iii)(II)(dd) of the Act; 8 C.F.R. § 204.2(c)(1)(v). 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). While we must consider any credible evidence relevant to the VAWA petition, we determine, in our sole discretion, what evidence is credible and the weight to give to such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

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). A petitioner, filing based on a qualifying marriage to an LPR, must establish that they entered into marriage in good faith. Section 204(a)(1)(B)(ii)(I)(aa) of the Act; 8 C.F.R. § 204.2(c)(1)(i)(H). Evidence of a good faith marriage may include: documents showing that the spouses listed each other on insurance policies, property leases, income tax forms, or bank accounts; evidence regarding their courtship, wedding ceremony, shared residence and experiences; birth certificates of any children born to the petitioner and his or her spouse; police reports, medical records, or court documents providing information about the relationship; affidavits from individuals with personal knowledge of the relationship; and any other credible evidence. *Id.* at § 204.2(c)(2)(vii).

## II. ANALYSIS

The record reflects that the Petitioner, a native and citizen of India, married T-N-K-,<sup>1</sup> an LPR, in [ ] 2019. She filed the instant VAWA petition in January 2021 based on this marriage. The Director deemed the initial evidence submitted in support of the VAWA petition to be insufficient to establish eligibility. After the Director issued a Request for Evidence (RFE), the Petitioner submitted additional documentation. Before denying the petition, the Director meticulously examined the evidence in the record, determined that it was not sufficient and therefore afforded it little evidentiary weight. The record reflected that she resided with her spouse for 8 days, from late [ ] 2019 until early [ ] 2019. Although her driver's license reflected the marital address, it was issued in September 2020, after she and her spouse no longer lived together; the marriage certificate only listed [ ] as the address for both; the Petitioner's personal statement did not provide details about her experiences during the period she resided with her spouse; the automobile insurance covered a period when the Petitioner and her spouse were no longer living together and there was a discrepancy with the address;<sup>2</sup> the automobile warranty letter was only addressed to the Petitioner; the screen shots of text messages were indiscernible regarding who was sending the texts messages and there was no context provided for the messages even after the Petitioner was informed of the lack of context in the RFE; the three letters of support were each less than one page long and did not provide any details about the things the writers witnessed regarding the joint residence; the two letters from the Department of Treasury were only addressed to the Petitioner and they were mailed in March 2021 after the Petitioner and her spouse no longer lived together; and the photographs, while showing the Petitioner and her spouse for a few moments in time, did not capture the shared residence. Thus, the Director concluded that the Petitioner had not established that she shared a joint residence with T-N-K-, nor enter into the marriage in good faith.

On appeal, the Petitioner reiterates her assertion that she resided with T-N-K-, and that the marriage was entered into in good faith. Upon *de novo* review, we adopt and affirm the Director's decision with

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<sup>1</sup> We use initials to protect the privacy of individuals.

<sup>2</sup> The automobile insurance policy listed the street number as 6543, although the street number for the marital residence was reportedly 6533.

the comments below. See *Matter of P. Singh, Attorney*, 26 I&N Dec. 623 (BIA 2015) (citing *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) (“[I]f a reviewing tribunal decides that the facts and evaluative judgments rescinding from them have been adequately confronted and correctly resolved by a trial judge or hearing officer, then the tribunal is free simply to adopt those findings” provided the tribunal’s order reflects individualized attention to the case).

The arguments and evidence submitted by the Petitioner on appeal are not sufficient, standing alone or viewed in totality with the underlying record, to establish that she resided with T-N-K- and that there was a good faith marriage. On appeal, the Petitioner submits a brief; previously submitted photographs of herself and T-N-K-; a photograph of T-N-K-; photographs of the car before and after it was damaged; a receipt for the purchase of the car; a copy of a loan check made payable to T-N-K- with a notation on the memo line – “loan to buy car”; screen shots of text messages; a January 2020 notice of red light violation for the car addressed to T-N-K-<sup>3</sup> at the marital residence; a copy of an April 2020 United States Citizenship and Immigration Services (USCIS) receipt for T-N-K-’s naturalization application and T-N-K-’s death certificate.<sup>4</sup> The Petitioner argues that her spouse blackmailed her into giving him money by threatening to have her deported, and that the VAWA provisions were intended to protect her. However, this argument addresses battery or extreme cruelty perpetrated by the abusive spouse, although the Director did not deny the VAWA petition based on this criterion. Consequently, this argument is not responsive to the issues on appeal.

The Petitioner argues that the Director did not account for the period of time the Petitioner and T-N-K- dated, while she was married to someone else, before the short time they lived together after marriage, and that the relationship was much longer and substantive. She states that she continued to financially support T-N-K- after they separated, gave him money because he threatened her with immigration enforcement if she failed to do so, and that T-N-K- had a serious drug problem which he hid from her until they were married, and that his drug habit and “scary, threatening behavior” caused them to separate. The Petitioner argues that an abuser often controls documents central to proving a good faith marriage and that primary evidence is often difficult or impossible to produce, and that VAWA allows a more lenient evidentiary standard – any credible evidence – which the Director is required to follow. Thus, the Petitioner argues that she presented evidence that she purchased a car for T-N-K-, and that he lived with her “at her apartment.” To that end, she states that her good faith marriage is demonstrated by the title to the car, her payments for the loan she got from her employer to buy the car, the insurance policy, and her testimony. The Petitioner admits that “certain evidence is not included in the application” and argues that the Director denied the VAWA petition for failure to submit particular evidence rather than a determination that her evidence was not credible. However, we note that we determine, in our sole discretion, the weight to give to such evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). Thus, while the Petitioner submits all the documents

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<sup>3</sup> We note that there is a discrepancy with the middle name of T-N-K- in the red-light notice.

<sup>4</sup> A Medical Examiner/Coroner Certificate of Death issued by the [ ] County Clerk, Vital Records, in [ ], Illinois indicates that T-N-K- died in July 2021.

she could, we determine, upon a review of the whole record, that they are insufficient to establish joint residence and a good faith marriage. We note that the Petitioner claims that the discrepancy in the address for the automobile insurance is a result of a typographical error. Therefore, the Petitioner is not just deficient in the quantity of evidence she submits, but of the quality of evidence as well. Moreover, we note that nowhere in the record is there a title to the car or any proof of car loan payments made, as claimed by the Petitioner.

The Petitioner argues that the Director did not give enough weight to the photographs. However, there were few photographs submitted and they were mostly close ups of the Petitioner's and T-N-K-'s face and torso. The photographs did not show if they were socializing with others, or where they were taken except for the ones where they were sitting in the back of a car. They do show that they were taken not over a period of time, but a few brief moments in time. Thus, while the photographs indicate that the Petitioner and T-N-K- were together at a particular time and place, they do not establish that the Petitioner entered into her marriage in good faith or shared a residence. The Petitioner argues that "USCIS gives little weight to their joint co-habitation because the Applicant admitted what happened in their relationship." The Petitioner further explains that this admission concerns T-N-K- going out of town to visit his sick uncle and then returning to [redacted] without telling her where he was for days. But we note that if the Petitioner chose to conceal an important aspect of the joint residence, such a concealment would only serve to compromise the integrity of her VAWA petition.

The Petitioner acknowledges that a complete address was not included on the marriage certificate which limited the proof of the marriage certificate to the marriage. But she argues that it nonetheless took place in the same city where the couple resided, and objects to the Director giving little weight to the marriage certificate. She argues that although she and T-N-K- were "not living together at the time the insurance policy was documented," it shows that they owned and insured a car jointly, thus supporting the Petitioner's efforts to maintain the marriage. However, if they were not living together at the time the insurance policy was issued, then this evidence cannot establish joint residence. Similarly, the Petitioner argues that the car warranty letter indicates that the Petitioner resided at the marital residence. But we note that the car warranty letter appears to be junk mail indiscriminately sent by a marketing service and is therefore not indicative of T-N-K-'s residence. The Petitioner avers that the screen shots of the text messages show that they communicated via text and that T-N-K- tried to prostitute her for \$600.00. However, this appears to be conjecture because the Petitioner is not named, nor identified by other means as the subject of this discussion, even if we were to assume that there was an attempt to prostitute her. Furthermore, this again would go to whether she was battered or subjected to extreme cruelty during the marriage; it would not show that she resided jointly with her spouse or that she entered into the marriage in good faith.

On appeal, the Petitioner offers no additional evidence to resolve the identified inconsistencies or otherwise overcome the grounds for the Director's denial. Further, the remaining documentary evidence in the record below did not overcome these deficiencies in the Petitioner's claim that she shared a residence with T-N-K-. We acknowledge and consider the Petitioner's claimed difficulty in

obtaining documents. However, after a complete review of the record, we determine that neither the Petitioner's personal statements, nor the documentary evidence submitted in support of her VAWA petition, provide persuasive or detailed evidence of her intentions at the time of the marriage to enter into the marriage in good faith or establish a joint residence. Upon review, the statements below submitted by others have limited probative value as they are general in nature, lack specific dates or details, and do not provide any description of the actual residence evincing the Petitioner's life there with T-N-K-. Accordingly, the Petitioner has not established that she and T-N-K- resided together.

The Director determined that the Petitioner did not demonstrate that she shared a joint residence with her abusive spouse as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act. As the Petitioner's inability to establish that she resided with T-N-K- is dispositive of her appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding her entry into the marriage 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).

In conclusion, the Petitioner has not established that she resided with her LPR spouse. Consequently, she has not demonstrated that she is eligible for immigrant classification under VAWA.

**ORDER:** The appeal is dismissed.