



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

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

In Re: 24730898

Date: FEB. 15, 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), concluding that the Petitioner did not establish that he resided with his U.S. citizen spouse, entered into the marriage in good faith, or was subjected to battery or extreme cruelty. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner contends that he 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 petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, among other requirements, that they resided with the abusive spouse during the marriage. Section 204(a)(1)(A)(iii)(II)(dd) of the Act; 8 C.F.R. § 204.2(c)(1)(i)(D). The Act defines residence as a person's general abode, which means the person's "principal, actual dwelling place in fact, without regard to intent." Section 101(a)(33) of the Act, 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 in fact resided together during the marriage. Section 204(a)(1)(A)(iii)(II)(dd) of the Act; 8 C.F.R. § 204.2(c)(1)(v). Evidence of joint residence may include employment, school, or medical records; documents relating to housing, such as deeds, mortgages, rental records, or utility receipts; birth certificates of children; insurance policies; or any other credible evidence. 8 C.F.R. § 204.2(c)(2)(iii).

II. ANALYSIS

The Petitioner asserted that he first met his spouse, C-T,¹ in May 2018 through a mutual friend, and they were married in [REDACTED] 2018. He stated that he was unaware of C-T's drug use and other "bad habits" until after they were married. He contends that C-T- abandoned him in 2019.

Prior to issuing a decision, the Director issued a Request for Evidence (RFE) seeking evidence establishing that the Petitioner resided with his spouse and that he was subjected to battery or extreme cruelty. In response to the RFE, the Petitioner indicated that he was unable to submit documentary evidence of his joint residence because C-T- was a private person. He explained that "[we] did not have a joint bank account because she decided she wanted us to have separate accounts. It was also her decision to file taxes individually. I do not have proof of a utility bill because in the beginning it was under someone else's name . . . I don't have a lease because I am renting a room . . . I also don't have any rental receipts. We do not share anything jointly or have any type of union because she was always very reserved with her household and her life." He also submitted statements from third-party affiants providing brief descriptions of their encounters with the Petitioner and C-T- and indicating that C-T- was jealous, argumentative, and an emotionally abusive person.

The Director denied the VAWA petition, determining that the Petitioner provided insufficient evidence of residence with his spouse during their marriage and did not establish that his marriage was entered into in good faith. The Director also determined that the record did not contain sufficient details regarding specific incidents of abuse committed by C-T-. On appeal, the Petitioner only submits medical report relating to an August 2022 emergency room visit.²

Although 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). In the present case, by the Petitioner's own admission, the record does not contain evidence of a joint residence, such as documents relating to housing, insurance policies; or any other credible evidence. 8 C.F.R. § 204.2(c)(2)(iii). Further, while third party affiants indicated that they spent time with the Petitioner and C-T-, their statements lacked probative details including dates or specific details about their residence, daily routines, or any of their belongings. Based on the foregoing, the Petitioner has not met his burden of establishing that he resided with his U.S. citizen spouse, as required. As the Petitioner's inability to establish that he resided with his spouse is dispositive of his appeal, we decline to reach and hereby reserve the Director's remaining grounds for denial.³ Consequently, the Petitioner has not demonstrated that he is eligible for immigrant classification under VAWA. The petition will therefore remain denied.

ORDER: The appeal is dismissed.

¹ Initials are used throughout this decision to protect the identities of the individuals.

² The report indicates that the Petitioner sought treatment for depression.

³ 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 an appeal where an applicant is otherwise ineligible).