U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 24715469

Date: FEB. 28, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse 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 of U.S. Citizen (VAWA petition), concluding that the Petitioner did not establish he entered into the qualifying relationship in good faith or that he had a joint residence with his U.S. citizen spouse. The matter is now before us on appeal. The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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.

A petitioner who is the spouse or former spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in part, that they entered into the marriage with the U.S. citizen spouse in good faith and the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii) of the Act. Among other things, a petitioner must establish that they have resided with the abusive spouse. Section 204(a)(1)(A)(iii)(II)(dd) of the Act; 8 C.F.R. § 204.2(c)(1)(i)(D).

The Petitioner, a native and citizen of Nigeria, filed his VAWA petition in February 2020 based on his marriage to K-L-,[1] a U.S. citizen. The Director denied the petition, determining that the Petitioner had not submitted sufficient evidence to establish that he entered into a good faith marriage, nor that he had resided with his U.S. citizen spouse, as required. The Director noted that the Petitioner initially submitted a marriage certificate, and documents from GEICO and a BGE bill addressed to the Petitioner and K-L- at [redacted] In response to a request for evidence (RFE), the Petitioner submitted a personal affidavit, a lease, affidavits written on his behalf, and a psychological evaluation. The Director observed that the marriage certificate listed [redacted] as their residence, although on the petition, the Petitioner stated that he solely resided with his spouse at [redacted] from August 2019 through January 2020. The lease submitted in response to the RFE was a month-to-month lease for [redacted] for the Petitioner and K-L- but did not match the information contained in the VAWA petition.

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

On appeal, the Petitioner submits an updated affidavit, another third-party affidavit from his mother-in-law, and several photographs. The Petitioner argues that there are inconsistencies in the record because his attorney made an error on his petition.[2] However, because the Petitioner signed his petition, there is a strong presumption that he knew and assented to its contents. *Matter of Valdez*, 27 I&N Dec. 496, 499 (BIA 2018). While the Petitioner may rebut this presumption by demonstrating "fraud, deceit, or other wrongful acts" by another party, he has not done so here. *Id.* The Petitioner explains that he and K-L- lived at [redacted] "from August 2019 until October 2019," and at [redacted] from "October 2019 through January 2020." The Petitioner states that when he and K-L- applied for a marriage license, they were living at [redacted] with K-L-'s cousin and intended to stay there for a while. However, they had to leave because there was a disagreement between K-L- and her cousin, and they moved shortly before they were married. The Petitioner also explains that when they were living at [redacted] they were asked to leave after two months because of loud arguments. Thereafter, they moved to [redacted] and lived there from October 2019 through January 2020.

Even as supplemented on appeal, the Petitioner has not submitted probative, detailed evidence that is sufficient to overcome the Director's grounds for denial of his petition or resolve the discrepancies surrounding his residence with K-L-. The record still contains inconsistencies regarding the Petitioner's first claimed shared residence with K-L-. On the VAWA petition, the Petitioner stated that K-L- began residing with him at [redacted] at the time of their marriage in [redacted] 2019 through January 2020. However, this information conflicts with his Form I-485, Application to Register Permanent Residence or Adjust Status (Form I-485), which indicates that he began residing at [redacted] in November 2019, and he did not claim any other residences in the United States within the preceding five years, as required. Further, while the Petitioner has submitted an additional third-party affidavit from his mother-in-law, it has limited probative value as it only includes general observations of the Petitioner's relationship, as well as a description of K-L-'s personality traits and temperament. It does not corroborate the specific dates or addresses for which he claims he resided with K-L-. As for the photographs, although they do depict him, his mother-in-law, K-L-, and her children, the Petitioner did not indicate when these photographs were taken, or how they pertain to the issue of his residence with K-L-.

Overall, the Petitioner has not submitted on appeal any additional documents that establish a shared residence with K-L-. As such, the Petitioner has not demonstrated by a preponderance of the evidence that he and K-L- resided together.[3] Section 204(a)(1)(A)(iii)(II)(dd) of the Act; 8 C.F.R. § 204.2(c)(1)(i)(D); *Matter of Chawathe*, 25 I&N Dec. at 375-76. Consequently, he has not demonstrated his eligibility for immigrant classification under VAWA.

ORDER: The appeal is dismissed.

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[2] The Petitioner's counsel claims it was an error by a legal assistant.

[3] Because the Petitioner did not establish that he resided with K-L-, which is dispositive of his appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding the remaining eligibility requirements forming the basis of the Director's 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).