U.S. Citizenship and Immigration Services

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

In Re: 22954663

Date: JAN. 3, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse of U.S. Citizen or Lawful Permanent Resident

The Petitioner seeks immigrant classification as a spouse of an abusive U.S. citizen under the Violence Against Women Act (VAWA) (VAWA self-petition) 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 petition, concluding that the record did not establish that the Petitioner had resided with her U.S. citizen spouse, as required, nor that she entered into the qualifying relationship in good faith. Furthermore, the Director determined that the Petitioner had not demonstrated that she had been battered by, or been subject to extreme cruelty perpetrated by, her spouse during their marriage. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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.

An individual 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 were battered or subjected to extreme cruelty perpetrated by the spouse and have resided with the spouse. Section 204(a)(1)(A)(iii) 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 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 Petitioner, a native and citizen of Brazil, filed the instant VAWA petition in August 2020 based on her marriage to V-, a U.S. citizen.[1] The Director denied the petition in December 2021, determining, in pertinent part, that the Petitioner had not demonstrated that she and V- resided together. Specifically, the Director found that the record did not contain sufficiently consistent, probative evidence corroborating the Petitioner's claim of several shared residences with 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).

On appeal, the Petitioner submits a brief, a new self-affidavit, an affidavit from V-, financial and insurance documents, copies of previously-submitted evidence, and affidavits from friends and associates in support of her claim of joint residence and remaining eligibility requirements. The Petitioner argues that with her appeal submissions she established that she meets the joint residence requirement and has already explained the inconsistencies identified by the Director. She contends that the record contains sufficient evidence to demonstrate her joint residence with V-, including the new affidavits submitted on appeal. The Petitioner also argues that she has established that she entered into her marriage with V- in good faith and that he subjected her to battery and extreme cruelty.

Even as supplemented on appeal, the Petitioner has not submitted sufficient probative, detailed evidence to overcome the Director's ground for denial of her petition. While the Petitioner has submitted additional third-party affidavits on appeal, they have limited probative value as they include general observations of the Petitioner's home and relationship. Indeed, many of these affidavits do not corroborate the specific dates or addresses for which she claims she resided with V-. Moreover, as discussed here, the Petitioner's new self-affidavit does not further address any of the specific inconsistencies identified by the Director nor does it provide additional probative details to establish that she resided with V-.

As noted in the Director's decision, a USCIS site visit took place in May 2018 at the Petitioner's claimed residence with V- on [redacted] Avenue in [redacted], California, and the visit found that the Petitioner and V- did not live together. On appeal, the Petitioner submits a self-affidavit describing the events of this site visit. She contends that the officers who visited her home spoke to her in a sarcastic tone. While we acknowledge this claim, the Petitioner's statement on appeal does not overcome the finding by the Director that the site visit demonstrated that she had not lived with her spouse.

The record also contained inconsistencies regarding the Petitioner's first claimed shared address with V-. On the VAWA self-petition, the Petitioner stated that V- began residing with her on [redacted] Way in [redacted] California at the time of their marriage in [redacted] 2016. However, this information conflicts with her Form G-325A, Biographic Information, indicating that V- began residing there in May 2016. In response to a request for evidence (RFE) regarding this inconsistency, the Petitioner stated that the discrepancy was a typo, a claim she renews on appeal. The dates during which she resided with V- are material to her claim of joint residence. Because the Petitioner signed her VAWA self-petition, there is a strong presumption that she knew and assented to the contents that petition. *Matter of Valdez*, 27 I&N Dec. 496, 499 (BIA 2018). While the Petitioner may rebut this

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

presumption by demonstrating "fraud, deceit, or other wrongful acts" by another party, she has not done so here. *Id.*

Furthermore, the Petitioner has also not explained other discrepancies identified by the Director on appeal. For example, as noted in the RFE, the lease the Petitioner provided for her [redacted] Avenue address in [redacted] from October 2019 to November 2020 did not include a signature for the "authorized representative". The Petitioner subsequently submitted a copy of this lease with such a signature and dated the beginning of the lease term. The Petitioner did not explain, either before the Director or on appeal, why the original submission did not contain this signature.

As such, the Petitioner has not demonstrated by a preponderance of the evidence that she and V- resided together. See *Matter of Chawathe*, 25 I&N Dec. at 375-76 (describing the petitioner's burden under the preponderance of the evidence standard and explaining that in determining whether a petitioner has satisfied their burden, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence).

As the Petitioner's inability to establish that she resided with V- is dispositive of her 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) ("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).

The Petitioner has not established that she resided with her U.S. citizen spouse, as required. Consequently, she has not demonstrated her eligibility for immigrant classification under VAWA.

**ORDER:** The appeal is dismissed.