U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 23925071

Date: JAN. 3, 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 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 his abusive spouse, as required. Furthermore, the Director determined that the Petitioner had not demonstrated that he had entered into his marriage in good faith. 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 filed the instant VAWA petition in December 2019 based on his marriage to S-, a U.S. citizen.[1] The Director issued two requests for evidence (RFE) notifying the Petitioner of inconsistencies in the record and gave the Petitioner an opportunity to explain them. In May 2022, the Director denied the petition, determining, in pertinent part, that the Petitioner had not demonstrated that he and S- resided together. Specifically, the Director found that the record did not contain

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

sufficiently consistent, probative evidence corroborating the Petitioner's claim of shared residence with S-.

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). Upon review of the record in full, we agree that the Petitioner has not met his burden to show that he resided with S-, as required by section 204(a)(1)(A)(iii) of the Act. *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).

On appeal, the Petitioner submits a brief asserting his eligibility. He contends that the Director attacked the authenticity of the evidence he submitted to show his joint residence and that he entered into the qualifying relationship in good faith and questioned the timeline of the events. The Petitioner additionally argues that the Director questioned the accuracy of the self-affidavit he submitted with his RFE response and that he was not provided an opportunity to rebut evidence to address the alleged inconsistencies per *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988). Upon review of the record in full, we find these arguments unavailing. The regulation at 8 C.F.R. § 103.2(b)(8)(iii) states, in pertinent part, that if the evidence submitted does not establish eligibility, USCIS may deny the benefit request for ineligibility. We therefore find no error in the Director's decision in this regard. Moreover, although the Petitioner argues that, in the denial, the Director questioned the self-affidavit he submitted with his RFE response, he has not provided additional explanations on appeal for the deficiencies identified by the Director.

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 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 he resided with his U.S. citizen spouse, as required. Consequently, he has not demonstrated her eligibility for immigrant classification under VAWA.

ORDER: The appeal is dismissed.