U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 19006563

Date: JAN. 9, 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)(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 or Child of U.S. Citizen (VAWA petition), and a subsequent motion to reopen and reconsider. The matter is before us on appeal. The Administrative Appeals Office (AAO) reviews the questions in this matter de novo. *See 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 he demonstrates, in part, that he was in a qualifying relationship as the spouse of a U.S. citizen, is eligible for immigrant classification based on this qualifying relationship, entered into the marriage with the U.S. citizen spouse in good faith and was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(l)(A)(i)-(iii) of the Act. 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).

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 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).

II. ANALYSIS

The record reflects that the Petitioner, a native and citizen of Bangladesh, married A-C-,[1] a U.S. citizen, in [redacted] 2016. He filed the instant VAWA petition in February 2018 based on this marriage. As evidence that he shared a residence with A-C- and was subjected to battery and/or extreme cruelty by her, the Petitioner submitted an affidavit and photographs of injuries that A-C- inflicted on herself to coerce him into staying in the United States.

The Director issued a request for evidence (RFE) seeking additional evidence that he shared a residence A-C- and was subjected to battery and/or extreme cruelty by her. In response, the Petitioner submitted an updated affidavit addressing his shared residence and claims of battery and/or extreme cruelty, a letter from his psychotherapist, and affidavits from two friends. The Director subsequently denied the petition, concluding that the Petitioner had not established that he resided with A-C-, or that he was subjected to battery and/or extreme cruelty by her. The Director explained that the Petitioner's assertions that he married A-C- in secrecy; that it was impossible to document the marriage and life together as they were short-lived; and that A-C- "came to spend some time with [him]" was not sufficient to support his claims of a shared residence with her. Additionally, the Director explained that the Petitioner's friends did not explain in their affidavits how they obtained their knowledge of the Petitioner's relationship with A-C-, or offer any probative information regarding their shared residence. Finally, the Director acknowledged the letter from the Petitioner's psychotherapist, but determined that it lacked detail regarding the nature, frequency and duration of his treatment.

Following the Director's denial, the Petitioner filed a combined motion to reopen and reconsider in September 2020. With his motion, the Petitioner submitted updated affidavits from himself, his friends, M-K-S- and M-H-, a tenant verification letter from M-H-, and mental health treatment notes from September 2019 to July 2020. The Director dismissed the combined motion, noting that the evidence was not new information or previously unavailable prior to the Director's denial. On appeal, the Petitioner resubmits the same evidence and contends that "[his] I-360 application is eligible to be reopened because he provided new information that was not available when his I-360 was decided."

Among the documents resubmitted on appeal is a tenant verification letter from M-H-, which the Petitioner argues is new evidence that was previously unavailable. However, the letter does not support the Petitioner's contentions regarding his shared residence with A-C-. For instance, M-H- initially stated in his affidavit that the Petitioner and A-C- lived in his home in New York from "[redacted] 25 to January 15." He stated in his subsequent affidavit that the Petitioner and A-C- were tenants from [redacted] 25, 2016, until March 15, 2017. These statements are contradicted by the Petitioner's own affidavits in which he stated that A-C- lived with him for one month, from November 1, 2016 to December 1, 2016; that he could not provide a lease because "[A-C-] just came and went within a month;" and that A-C- came to New York to their new place of residence on November 1, 2016, but returned to her parents' home in Virginia on December 1, 2016. Additionally, we note that the Petitioner provided no other objective evidence that he shared a residence with A-C-, such as employment records, utility receipts, medical records, rental records, or insurance policies.

[1] Initials are used to protect the individual's privacy.

As discussed above, 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). Based on our de novo review, the Petitioner has not submitted sufficient evidence that he shared a residence with A-C-. As this issue is dispositive of his appeal, we decline to reach and hereby reserve the Petitioner's other appellate arguments. *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).

III. CONCLUSION

The Petitioner has not established by a preponderance of the evidence that he resided with A-C-. Consequently, he has not demonstrated that he is eligible for immigrant classification under VAWA.

ORDER: The appeal is dismissed.