



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

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

In Re: 24048248

Date: JAN. 23, 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 under the Violence Against Women Act (VAWA) provisions codified in the Immigration and Nationality Act (the Act) at section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii), as an abused spouse of a U.S. citizen. 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 record did not establish the Petitioner was eligible for immigrant classification under section 201(b)(2)(A)(i) of the Act, 8 U.S.C. § 1151(b)(2)(A)(i), is a person of good moral character, or entered into the qualifying relationship 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.

I. LAW

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if they demonstrate they entered into the marriage in good faith and were battered or subjected to extreme cruelty perpetrated by the spouse. Section 204(a)(1)(A)(iii)(I) of the Act. The petitioner must also show that they are eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, resided with the abusive spouse, and are a person of good moral character. Section 204(a)(1)(A)(iii)(II) of the Act. While we must consider any credible evidence relevant to the VAWA self-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).

II. ANALYSIS

The Petitioner entered the United States in December 2000 without admission according to his VAWA petition.¹ He married a U.S. citizen, A-A-,² in [] 2015. In January 2018, the Petitioner filed the

¹ On appeal, the Petitioner states that he entered the United States in October 1999.

² Initials are used throughout this decision to protect the identity of the individual.

instant VAWA petition based on his marriage to A-A-, claiming that she engaged in abusive behavior. He mentioned that they resided together from 2010 until May 2017. The Director denied the VAWA petition, concluding that the Petitioner did not demonstrate he was eligible for immigrant classification under section 212(b)(2)(A)(i) of the Act, is a person of good moral character, or entered into the qualifying relationship in good faith.

The Director initially reviewed several pieces of evidence in determining the Petitioner did not establish he entered into a good faith marriage with A-A-, including his affidavit, a third-party affidavit, his marriage certificate, bank account statements, and pictures of the Petitioner and A-A-. As such, the Director issued a request for evidence and the Petitioner submitted another affidavit, several third-party affidavits, his marriage certificate, bank account statements, pictures of himself and A-A-, and an approval notice for a Form I-130, Petition for Alien Relative, that A-A- filed on his behalf. The Director noted the Petitioner's marriage certificate shows he entered into a legal marriage in [REDACTED] 2015, but it did not provide details into the dynamics of his relationship prior to his marriage, his intent upon entering marriage, or his subsequent marital relationship. The Petitioner described how he met A-A- in 2010 at work, he asked her out after four months, they went to the beach and movies together, they moved in together, and they married in [REDACTED] 2015. However, the Director determined that the Petitioner's statements lacked detail pertaining to the nature of their relationship prior to marriage. Furthermore, the Director stated the third-party affidavits were general in nature, lacked probative details of the dynamics of the Petitioner's marriage with A-A-, and did not describe interactions such as their courtship, wedding ceremony, or memorable experiences in their married life. The bank account was only in the Petitioner's name and not sufficient to establish commingling of financial resources or joint liability between the Petitioner and A-A-. The Director mentioned the photographs captured one-time events and lacked thorough explanations, thereby giving them minimal probative weight. Lastly, the Director noted the Petitioner's approved Form I-130 but stated a decision on a prior immigration filing has no bearing on the instant VAWA petition and the approved Form I-130 has since been revoked. Based on the above evidence and discussion, the Director concluded the record did not establish the Petitioner entered into the qualifying relationship with A-A- in good faith.

Additionally, the Director found the record did not establish the Petitioner is a person of good moral character. In making this determination, the Director detailed the Petitioner's adverse factors, including six charges for driving under the influence. We incorporate the Director's list of the Petitioner's criminal history and the list of evidence related to good moral character into this decision. The Director acknowledged as favorable factors the Petitioner's family ties in the United States, payment of taxes between 2018 and 2020, and general hardship to his family. However, the Director determined that the Petitioner's favorable factors did not outweigh his adverse factors. Furthermore, the Director mentioned that the Petitioner's conduct fell below the standards of the average citizen, and his continued disregard for U.S. laws and the safety of the public for over a decade was a serious concern in regard to his character.

Lastly, the Director concluded the record did not establish the Petitioner was eligible for immigrant classification under section 201(b)(2)(A)(i) of the Act. In making this conclusion, the Director first noted the Petitioner married A-A- while in removal proceedings and his VAWA petition was therefore

deniable under section 204(g) of the Act.³ Next, the Director concluded that because the Petitioner did not establish he entered into a good faith marriage under the preponderance of the evidence standard, he did not meet the higher standard of clear and convincing evidence necessary to overcome the applicability of section 204(g) of the Act.

On appeal, the Petitioner submits a brief, criminal records, previously submitted third-party affidavits, his Form I-130 approval notice (which was subsequently revoked), and his previously submitted affidavits. The Petitioner claims that he entered into marriage with A-A- in good faith. He states that he previously explained how his courtship began and how it led to him living with A-A-. Specifically, he mentions that he met A-A- while at work, they exchanged numbers, they started to date, they moved in together, and they married after five years. He then refers to the affidavits submitted by his family members. His daughter states that she attended the Petitioner's marriage ceremony, witnessed his marriage for five years, and would go out for breakfast with him and A-A-. His sister states the marriage lasted five years, she was invited to their ceremony, and she visited them for family reunions, celebrations, and holidays. The Petitioner's other sister makes similar claims. Furthermore, the Petitioner states he provided insight into his marital relationship. He mentions he was the only one working which led to financial hardship, they began to argue about bills, and A-A- forced him out of the house in October 2017 for spending money on bills. He also mentions the abuse he experienced during his marriage with A-A-, including her insults, attempt to run him over, threat to have him deported, and threat to have her brothers harm him. Last, the Petitioner references his April 2017 Form I-130 approval as evidence that he entered into a good faith marriage with A-A-.

Based on a de novo review of the record, we adopt and affirm the Director's decision that the Petitioner did not establish by a preponderance of the evidence that he entered into a good faith marriage with A-A-. See *Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); see also *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight U.S. Courts of Appeals in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case). The Director's decision provided a thorough analysis of whether the Petitioner entered into a good faith marriage with A-A-, as described above, and his submission on appeal does not include new evidence which would overcome the Director's findings. The Director correctly determined that the Petitioner's affidavits lacked detail pertaining to the nature of his relationship with A-A- prior to their marriage, and that the brief, one-paragraph third-party affidavits were general in nature, lacked probative details to show insight into the dynamics of the Petitioner's marriage with A-A-, and did not describe in detail interactions such as their courtship, wedding ceremony, or memorable experiences in their married life. In addition, the statements from the Petitioner's daughter and sisters indicate they interacted with the Petitioner and A-A- over a five-year period of marriage, whereas the VAWA petition reflects that the Petitioner and A-A- stopped residing together as a married couple in less than two years. Finally,

³ The Act bars approval of a VAWA petition if the petitioner entered into the marriage giving rise to the petition while in removal proceedings, unless the petitioner has resided outside the United States for a period of two years after the date of marriage or establishes by clear and convincing evidence that the marriage was entered into in good faith. See sections 204(g) and 245(e)(3) of the Act, 8 U.S.C. §§ 1154(g) and 1255(e)(3) (outlining the restriction on, and exception to, marriages entered into while in removal proceedings); see also 8 C.F.R. § 204.2(c)(1)(iv) (providing that a self-petitioner "is required to comply with the provisions of . . . section 204(g) of the Act"). Clear and convincing evidence is that which, while not "not necessarily conclusive, . . . will produce in the mind . . . a firm belief or conviction, or . . . that degree of proof which is more than a preponderance but less than beyond a reasonable doubt." *Matter of Carrubba*, 11 I&N Dec. 914, 917 (BIA 1966).

the Petitioner did not provide additional evidence to establish commingling of financial resources or joint liability between himself and A-A- or thorough explanations of the events captured in the photographs he previously submitted.

As we determined that the Petitioner has not established by a preponderance of the evidence that he entered into marriage with A-A- in good faith, we decline to reach and hereby reserve the Petitioner's arguments regarding whether he was eligible for immigrant classification under section 212(b)(2)(A)(i) of the Act or is a person of good moral character. *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).

ORDER: The appeal is dismissed.