U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 19426032

Date: JAN. 26, 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)(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 or Child of U.S. Citizen (VAWA petition), and 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).

U.S. Citizenship and Immigration Services (USCIS) shall consider any credible evidence relevant to the VA WA petition; however, the definition of what evidence is credible and the weight that USCIS gives such evidence lies within USCIS' sole discretion. Section 204(a)(l)(J) of the Act; 8 C.F.R § 204.2(c)(2)(i).

II. ANALYSIS

The record reflects that the Petitioner, a native and citizen of India, married S-D-,[1] a United States citizen, in [redacted] 2016. He filed the instant VAWA petition in July 2018 based on the marriage. As evidence of his shared residence, the Petitioner submitted multiple personal affidavits, third party affidavits from K-S-, J-S-, G-S-, G-S- and M-S-, a copy of a lease agreement, a copy of a Home Energy Report from the [redacted] Company ([redacted], a copy of S-D-'s social security statement, his marriage certificate, and several personal photographs. The Director acknowledged the Petitioner's personal affidavits, but explained that there were inconsistencies between them and other evidence in the record. The Director further acknowledged the third-party affidavits from K-S-, J-S, A-S-, G-S-, G-S-, and M-S-, but explained that they contained inconsistent information regarding the location and duration of his shared residence with D-S-. Additionally, the Director emphasized that copies of a Home Energy Report from [redacted] S-D-'s social security statement, the Petitioner's marriage certificate, and family photographs were not sufficiently probative evidence of the Petitioner's shared residence with S-D-.

The Director issued a request for evidence (RFE) seeking additional evidence that the Petitioner and S-D- shared a residence. In response, the Petitioner submitted a USCIS prima facie determination, a copy of his Form I-130, Petition for Alien Relative approval notice (Form I-130 approval), a copy of page 10 of his VAWA petition amending his dates of residence with S-D-,[2] an affidavit from W-A-D, and updated affidavits from K-S-, G-S-, G-S-, J-S-, and M-S. The Director explained that the USCIS letter was not sufficient evidence that he resided with S-D- during the qualifying relationship. The Director also explained that the Form I-130 approval was not prima facie evidence of eligibility for immigrant classification under VAWA. The Director acknowledged page 10 of his VAWA petition amending the dates of his shared residence with S-D-. However, the Director concluded that the Petitioner was not a credible or reliable witness and thus, the amended page 10 of his VAWA petition was insufficient to overcome the inconsistencies within the record. Regarding the third-party affidavits from W-A-D-, K-S-, G-S-, J-S-, and M-S, the Director determined that they either did not provide sufficient details of the Petitioner's shared residence with S-D- or were inconsistent with previously submitted evidence.

On appeal, the Petitioner contends that the Director erred in concluding that he did not share a residence with S-D-. He generally argues that the Director inadequately evaluated and weighed his previously submitted evidence of his shared residence with S-D-.

Upon de novo review, we adopt and affirm the Director's decision insofar as the Director determined the Petitioner did not establish that he shared a residence with S-D-. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994) (noting that the "independent review authority" of the Board of Immigration Appeals (Board) "does not preclude . . . adopting and affirming the decision [below], in whole or in part, when [the Board is] in agreement with the reasoning and result of that decision"); *see also Chen v. INS*, 87 F.3d 5, 7-8 (1st Cir. 1996) ("we join eight of our sister circuits in ruling that the Board need not write at length merely to repeat the [Immigration Judge's (IJ's)] findings of fact and his reasons

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

[2] The Petitioner changed the start date of his alleged residency with S-D- from August 19, 2016, to April 29, 2016, stating that his attorney typed the wrong date.

for denying the requested relief, but, rather, having given individualized consideration to a particular case, may simply state that it affirms the IJ's decision for the reasons set forth in that decision.").

We acknowledge the Petitioner's contentions on appeal. Specifically, we note the Petitioner's contentions regarding K-S-'s affidavit that he knew the Petitioner and S-D- were living as spouses in Indiana. However, the Petitioner submitted no evidence other than third party affidavits and statements that he or S-D- ever shared a residence in Indiana. In his updated affidavit, K-S- stated that "when [he] wrote 'Indiana' as where [he] had seen [the Petitioner and S-D-], it was just from default and a mistake." He further stated that he had seen the Petitioner and S-D- as husband and wife "many times" in Illinois not Indiana, but provides no further explanation for this inconsistent information in his prior affidavit. We further acknowledge the Petitioner's assertions regarding the inconsistencies in J-S-'s affidavits. However, the length of J-S-'s relationship with the Petitioner is unclear as his assertion that he "reconnected" with the Petitioner five years ago is inconsistent with his prior affidavit that "it [had] been a real privilege to know [the Petitioner] for the last 5 years." Additionally, while the Petitioner disputes the Director's discounting of G-S-'s and G-S-'s affidavits, he has not explained why they stated that the Petitioner's and S-D-'s families arranged their marriage when the Petitioner himself stated that he proposed marriage after the Petitioner became pregnant. Finally, the Director correctly noted that W-A-D-'s statement contained no probative details of the Petitioner's and S-D-'s shared residence, other than to say that "[she knew] that they been [*sic*] living together at there [*sic*] place on [redacted]" As such, the third-party affidavits including the affidavits from K-S-, S-D-, G-S-, G-S-, M-S- and W-A-D- are not sufficient, standing alone or viewed in totality with the aforementioned evidence in the record, to meet the Petitioner's burden, as they contain numerous unresolved inconsistencies and do not otherwise sufficiently establish that he shared a residence with S-D-.

In sum, the Petitioner has still not provided consistent and credible information regarding his shared residence with S-D—information that the Director noted was lacking in the record below. The Petitioner's assertions on appeal regarding the sufficiency of his evidence, absent any additional probative and consistent evidence of his shared residence with S-D-, are not sufficient to overcome the deficiencies in the record. As a result, we agree with the Director that the Petitioner has not established that he shared a residence with his U.S. citizen spouse by a preponderance of the evidence. Since the identified basis for denial is dispositive of this matter, we decline to reach and hereby reserve the Director's remaining grounds for 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). Consequently, the Petitioner has not demonstrated that he is eligible for immigrant classification under VAWA.

III. CONCLUSION

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

ORDER: The appeal is dismissed.