



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

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

In Re: 27437297

Date: JUL. 31, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Abused Spouse of U.S. Citizen or Lawful Permanent Resident)

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 petition, concluding that the record did not establish that the Petitioner had entered into a qualifying relationship with a United States citizen, that he had established that he shared a residence with the United States citizen spouse, or that he married the United States citizen spouse 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.

A petitioner 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). Petitioners are “encouraged to submit primary evidence whenever possible,” but may submit any credible evidence relevant to the VAWA petition in order to establish eligibility. 8 C.F.R. § 204.2(c)(2)(i). We determine, in our sole discretion, the credibility of and weight given to all of the 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 Nigeria, married L-C-N-¹ in 2019, and filed his Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition), in January 2021 based upon this marriage.

¹ We use initials to protect the identity of individuals.

In the record before the Director, the Petitioner stated that he met L-C-N- in late 2018 at a grocery store in Indiana. The Petitioner's personal statement submitted with the VAWA petition indicated that they "courted for about 4 months then decided to get married in [REDACTED] 2019." The Petitioner said that they were serious about building a life together and ready to settle down, and that L-C-N- continued living in Illinois after the marriage to care for her mother, and L-C-N- moved to Indiana in January 2020 after her mother had passed away in September 2019. The Petitioner also noted that he and L-C-N- separated in November 2020. The Petitioner also submitted documents regarding his previous marriage in Nigeria, his marriage to L-C-N-, photographs from a single event, unsubmitted applications for health, dental, and vision insurance dated October 2020, copies of letters from the United States Postal Service, third party affidavits, and a psychosocial evaluation completed in April 2021. Following review of the initial evidence, the Director issued a request for evidence (RFE), which informed the Petitioner of deficiencies in his VAWA petition.

In response to the RFE, the Petitioner submitted another personal statement where he stated that L-C-N- was a "kind, understanding woman who always ensured [he] was doing well," and reiterated that they were serious about building a life together and ready to settle down. He stated that L-C-N- did not move in with him after the marriage because she was caring for her mother, but that she "used to shuttle between Indiana and Illinois" and that he "also went to [REDACTED] a few times to be with her." The Petitioner also submitted clarifying documents regarding his marriages, additional third-party affidavits, a copy of a letter from Globe Life dated November 2020, and other copies of evidence already included with his initial VAWA petition.

After review, the Director denied the VAWA petition. In the decision, the Director noted inconsistencies between the copies of his Nigerian divorce documents, and that they were unable to determine if the Petitioner's Indiana marriage certificate was legitimate. The Director also concluded that the Petitioner had not established that he shared a joint residence with L-C-N-, as the evidence he provided was insufficient. In the Director's review of the evidence, they determined that he did not provide any information regarding the residence, interactions within the home or daily routines for him and his spouse, nor did he provide any information regarding the situation in which his spouse left the residence. The Director noted that the third-party affidavits claimed to visit him at the marital residence, but they did not describe any interactions between him and his spouse. In review of the psychosocial evaluation, the Director stated that the Petitioner's statements and information on the VAWA petition indicated that he stopped residing with L-C-N- in November 2020, but the evaluation stated that they no longer resided together after August 2020. The Director further stated that certain mail was only addressed to the Petitioner, and that he did not provide an explanation as to why the applications for health, dental, and vision insurance were dated October 2020, after the date which psychosocial evaluation indicated that he and L-C-N- had separated. Further, the Director noted that the mail from Globe Life was dated outside of the claimed joint residence period, and letters from the United States Postal Service, which listed both the Petitioner and his spouse, were dated three days prior to the date the Petitioner claimed their joint residence concluded.

On appeal, the Petitioner submits a personal statement, and copies of evidence already included in the record. The Petitioner again states that he and L-C-N- met in a grocery store in 2018 and provides some basic details regarding the apartment where they resided, such as the location of bedrooms and restrooms. Regarding the insurance policies, he states that it "has always been [his] plan to have joint

insurance with [L-C-N-]" but the abuse he suffered made it difficult. This evidence does not directly or meaningfully address the deficiencies noted by the Director in their denial, and as such, we agree with the conclusion that the Petitioner has not established, by a preponderance of the evidence, that he shared a joint residence with L-C-N-, as required by section 204(b)(1)(B)(ii)(II)(dd) of the Act.

Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding his qualifying relationship and whether he entered the marriage in good faith. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *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).

In conclusion, the Petitioner has not established that he resided with his United States citizen spouse. Consequently, he has not demonstrated that he is eligible for immigrant classification under VAWA.

ORDER: The appeal is dismissed.