



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

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

In Re: 25801646

Date: JUN. 1, 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 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 VAWA petitioner must establish, among other requirements, that they resided with the U.S. citizen spouse. Section 204(a)(1)(A)(ii)(II)(dd) of the Act. 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 Nigeria, married C-M-S-,¹ a United States citizen, in [] 2018. He filed the instant VAWA petition in March 2020 based on that marriage. In support of the petition, the Petitioner submitted a copy of his marriage certificate, a copy of birth certificates for himself and C-M-S-, several pages from his Nigerian passport, and a copy of his divorce decree from C-M-S-.

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

The Director issued a request for evidence seeking additional evidence that the Petitioner and C-M-S- shared a residence. In response, the Petitioner submitted an affidavit, a copy of a lease agreement, a copy of rent receipts from December 2018 to March 2020, a new account information sheet and bank statements from Ameris Bank from August 2019 to June 2020, a copy of a Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Withholding and Reporting (Individuals), an invoice for a life insurance policy, a copy of several divorce documents, a background check from the State of Georgia, and a Form I-693, Report of Medical Examination and Vaccination Record.

The Director denied the petition, noting that the Petitioner's affidavit referenced himself and C-M-S- occasionally being at the same location, but did not provide probative details demonstrating that they shared a residence. She further noted that his affidavit indicated that he met C-M-S- on February 28, 2018, while his VAWA petition stated that he began living with her eight days earlier, on February 20, 2018. The Director further highlighted that the lease agreement, which had a start date of January 1, 2019, was not signed by the Petitioner or C-M-S-. Further, the Petitioner indicated on his VAWA petition that the lease start date at that address was August 1, 2019, and the discrepancy between these dates called into question the timeline of their alleged shared residence. Finally, the Director stressed that the fact that C-M-S-'s name was on the rent receipts and joint bank statements was not probative evidence that she shared a residence with the Petitioner.

On appeal, the Petitioner maintains that he shared a residence with C-M-S-. Specifically, he argues that his failure to indicate that he had stopped living with C-M-S- on his VAWA petition, filed in March 2020, was an omission on his part and that the discrepancy in dates of his residence with C-M-S- "stem[med] from the fact that even though they both signed the lease, . . . they did not move in together at the same time." However, as stated in the Director's decision, the lease agreement was not signed by the Petitioner or C-M-S-. The Petitioner further states that they resided in different cities but that "their marital residence was in [redacted]" and that "shuttling between the two cities accounts for the inconsistency in dates," but does not provide any more information or evidence to resolve the inconsistencies, address the evidentiary deficiencies noted by the Director, or otherwise establish when he and C-M-S- resided together as claimed.

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 C-M-S-. *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 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.").

While we acknowledge the Petitioner's contentions, he has still not provided probative evidence of his shared residence with C-M-S-, information that the Director noted was lacking in the record below. The Petitioner's generalized contentions on appeal, absent any additional probative evidence of his shared residence with C-M-S-, 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 C-M-S-. Consequently, he has not demonstrated that he is eligible for immigrant classification under VAWA.

ORDER: The appeal is dismissed.