



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

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

In Re: 24094118

Date: MAR. 13, 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 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 (the Director) denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition). The matter is now 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.

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if they demonstrate, among other requirements, that 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. Evidence of a good faith marriage may include documents showing that one spouse has been listed as the other's spouse on insurance policies, property leases, income tax forms, or bank accounts; evidence regarding their courtship, wedding ceremony, shared residence, and experiences; birth certificates of any children born during the marriage; police, medical, or court documents providing information about the relationship; affidavits from individuals with personal knowledge of the relationship; and any other credible evidence. 8 C.F.R. § 204.2(c)(2)(i), (vii). 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).

The Act bars approval of a VAWA petition if the petitioner entered into the marriage giving rise to the petition while in exclusion or deportation 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 exclusion or deportation 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, a native and citizen of India, was placed in exclusion proceedings in 1992. He married his U.S. citizen spouse, K-P-,¹ in [REDACTED] 2017. The Petitioner subsequently filed his VAWA petition in February 2019. The Director denied the petition, finding that the Petitioner had not met his burden of establishing by clear and convincing evidence that he entered into marriage with K-P- in good faith, as required by section 204(g), because the Petitioner married his spouse while in exclusion or deportation proceedings, and he did not establish his eligibility for immigrant classification under section 201(b)(2)(A)(i) of the Act. Specifically, the Director determined that the Petitioner’s affidavits and third-party affidavits of support lacked consistent, probative details related to the Petitioner’s claim of good faith marriage, did not sufficiently detail the development of the Petitioner’s relationship with K-P-, and failed to substantively describe shared experiences. In addition, the Director found that the financial documentation was not sufficient to establish that the marriage between the Petitioner and K-P- was entered into in good faith.

On appeal, the Petitioner contends that the Director did not give sufficient weight to the documentation submitted as proof of his and K-P-’s good faith marriage. In support of his contention, he submits an updated affidavit, two updated affidavits from individuals who previously submitted statements in support of the petition, and medical records. Upon de novo review, we find that the Petitioner has not established by clear and convincing evidence that he married K-P- in good faith.

The Petitioner’s affidavits submitted with the petition and on appeal address his initial courtship with K-P- in a general manner, describing how they met at a park in September 2016 and became inseparable soon thereafter, he told her he was falling in love with her in December 2016, and they married a year later. The affidavits provide little additional insight into the Petitioner’s intentions in marrying K-P-, their courtship, or the dynamics of the marriage. The affidavits also provide little detail of mutual interests or circumstances and events demonstrating the Petitioner’s involvement prior to or during the marriage. The affidavits also do not offer any specific information regarding the Petitioner’s residence with K-P-, such as details of the residence, home furnishings, daily routines, or any of their belongings. The third-party affidavits in the record and on appeal are similarly vague regarding the Petitioner’s courtship and marriage to K-P-. With regard to the photographs, they depict the Petitioner and K-P- together but are not dated or labeled and do not otherwise provide context for or insight into things the couple did together, their shared experiences, or events they attended together.

Regarding the submitted bank account statements, federal tax returns and transcripts, life insurance documentation, and utility bills, we concur with the Director’s determination that the documentation does not establish the commingling of resources and shared financial responsibilities normally associated with a bona fide marriage. We note that the bank statements showed that a minimal balance was maintained on the account, and it did not contain the types of financial transactions normally associated with a bona fide marriage, such as rental, utility, grocery, or insurance payments.

¹ Initials are used to protect the privacy of individuals.

Because the Petitioner entered into marriage while in exclusion or deportation proceedings, the Petitioner must establish by clear and convincing evidence that he entered into marriage with K-P- in good faith. As discussed above, considering the lack of probative evidence, the Petitioner has not met this burden. Therefore, he has not established his eligibility for immigrant classification under VAWA.

ORDER: The appeal is dismissed.