



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

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

In Re: 25014484

Date: MAR. 13, 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 submits a brief and copies of previously submitted documents. The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 376 (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 VAWA petitioner must establish, among other requirements, that they entered into the qualifying marriage to the U.S. citizen spouse in good faith and not for the primary purpose of circumventing the immigration laws. Section 204(a)(1)(A)(iii)(I)(aa) of the Act; 8 C.F.R. § 204.2(c)(1)(ix). 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). Although 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 Petitioner, a native and citizen of Brazil, filed his VAWA petition in October 2018 based on his marriage to C-S-,¹ a U.S. citizen. The Director denied the petition, determining that the Petitioner had not demonstrated that he entered into a good faith marriage with C-S-, as required. Specifically, the Director explained that the record contained numerous inconsistencies which diminished the Petitioner's credibility and these inconsistencies had not been satisfactorily explained. The Director informed the Petitioner that a systems check linked him to an address in [redacted] Washington where the mother of his two children resided, although the Petitioner claimed to reside in [redacted] Washington,

¹ We use initials to protect the privacy of individuals.

with C-S-. In July 2018, USCIS officers conducted a site visit² in [] Washington but were unable to contact the residents of the home. The USCIS officers interviewed a neighbor and showed them the Petitioner's picture. The neighbor identified the Petitioner as a resident of the home and said the Petitioner lived there with his wife and two children. The neighbor further stated that the residence had been maintained for "many years."

The USCIS officers visited the claimed shared residence in [] Washington in July and October 2018, but the Petitioner was not home on both occasions. USCIS was unable to verify the Petitioner's residence at this address based on these site visits. The Director discussed the supporting affidavit from J-M-, who claimed to be a witness at the marriage ceremony. J-M- claimed he visited the Petitioner at the marital home, but described the residence in [] Washington, a two-story building, and not the residence the Petitioner claims to have shared with C-S- in [] Washington, which was a one-story ranch house. J-M- later stated to USCIS officers that the Petitioner advised him to write the supporting affidavit, and he knew the information in the affidavit was fraudulent and fabricated, but that the Petitioner was his boss, and he needed the work.

The Director acknowledged that in order to satisfy the good faith marriage requirement, the Petitioner submitted, among other things, copies of the following: automobile insurance policies; utility bills; self-affidavits; third party affidavits; a marriage certificate; and photographs. However, these documents were found to be insufficient to establish a good faith marriage because of the many inconsistencies in the record.

Upon de novo review, we adopt and affirm the Director's decision with the comments below. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *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). Upon review of the record, the arguments made by the Petitioner on appeal are insufficient to establish his good faith marriage with C-S-.

On appeal, the Petitioner asserts that he has established a good faith marriage. The Petitioner objects to the use of the results of the site visit and argues that the Director erred by relying on undisclosed evidence and unsubstantiated information. He further argues that the Director failed to acknowledge the corroborating evidence, adhere to established legal standards when considering evidence for VAWA petitions, and explain what details were lacking in the submitted evidence.

We agree with the Director that the Petitioner has not established that he entered into marriage with C-S- in good faith. The information garnered from the site visit gave insight as to whether the Petitioner entered into a good faith marriage and whether he resided with his spouse as opposed to the mother of his children. We acknowledge the Petitioner's argument that the Director violated the Petitioner's due process rights "by not disclosing, providing a copy of or providing specific details of alleged derogatory information when denying a nondiscretionary application for an immigration benefit." However, this argument is unavailing because the Petitioner was informed about the

² The site visit was conducted in connection with a Form I-130, Petition for Alien Relative (Form I-130) C-S- filed on behalf of the Petitioner. C-S- later withdrew the Form I-130.

derogatory information obtained from the site visit in the notice of intent to deny (NOID) and he responded to the NOID. The Petitioner also argues that the Director erred by focusing on J-M-'s affidavit which J-M- later stated was fraudulent. However, the Petitioner does not explain why J-M- was unable to describe the marital home where he claimed he visited, but instead described the home of the mother of the Petitioner's children.

Lastly, and contrary to the Petitioner's contention, the Director considered all the evidence submitted to establish a good faith marriage, and evaluated them in accordance with the whole record. Consequently, when viewed as a whole, the record does not establish that the Petitioner entered into the marriage in good faith.³ In conclusion, because the Petitioner has not established that he entered the marriage in good faith, he is ineligible for VAWA classification.

ORDER: The appeal is dismissed.

³ As noted, the Director also determined that the Petitioner did not demonstrate that he and C-S- resided together, as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act. As the Petitioner did not establish that he entered into marriage with C-S- in good faith, we decline to reach and hereby reserve the Petitioner's appellate arguments on this issue. *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).