



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

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

In Re: 19963385

Date: AUG. 30 2022

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), concluding that the Petitioner had not shown that he had resided with his U.S. citizen spouse, and that he had entered into marriage with the same spouse in good faith. The matter is before us on appeal.¹ Upon *de novo* review, we will dismiss the appeal.

I. LAW

An individual who is the spouse of a U.S. citizen may self-petition for immigrant classification under VAWA if the individual demonstrates, among other requirements, that they entered into the qualifying marriage to the abusive 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)(i), (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 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).

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, 375 (AAO 2010). 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.

¹ The Petitioner prepared and signed the Form I-290B, Notice of Appeal or Motion, and the record is absent a Form G-28, Notice of Appearance as Attorney or Representative, on appeal. Therefore, although the Petitioner's appellate brief appears to have been prepared by an attorney, we will consider the Petitioner to be self-represented on appeal.

Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). We review the questions in this matter *de novo*. See *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

II. ANALYSIS

The Petitioner, a native and citizen of Nigeria, last entered the United States in September 2018 on a nonimmigrant visitor visa, and married his U.S. citizen spouse, S-L-, in [redacted] New York in [redacted] 2019.² He filed the instant VAWA petition in July 2019 based on a claim of battery and extreme cruelty by S-L-.

A. Good Faith Marriage

In the record before the Director, the Petitioner initially claimed that he met S-L- at a local retail mart in [redacted]. He stated that they immediately bonded because they had a lot in common, specifying that they both had been previously married. The Petitioner stated that S-L- became very involved in his life, would visit him frequently at his house, and joined him for Sunday get-togethers customary to his religion. The Petitioner claimed that after a few months of being around each other, they “decided to most active in [his] life [sic],” and that after a month of “speaking to . . . God,” he was convinced that S-L- was the one for him so they married in front of family and friends. According to the Petitioner, after the wedding ceremony he and S-L- shared responsibilities such as apartment bills, taking the Petitioner’s kids on family outings, opening a joint family account, and setting up investments for the future of their kids; however, he did not include copies of their joint bank statements or records of the investments that he claimed they had set up. The remainder of the Petitioner’s initial statement discusses the abuse to which he claims S-L- subjected him. The Petitioner also provided photographs of himself, a woman, and two men in a hallway that are not labelled and do not include dates or descriptions of the event depicted.

With the VAWA petition, the Petitioner also included three statements from friends who claimed to have known him and S-L-. According to O-C-, he had known the Petitioner since 2017, they were close friends and attended the same church, and the Petitioner had told him that he was in love. O-C- claimed that he had met S-L- on several occasions and was invited to her wedding ceremony with the Petitioner. The remainder of the statement discusses the claimed abuse to which S-L- subjected the Petitioner. Another friend name E-K- stated that he had seen the courtship between the Petitioner and S-L-, that he was present on the day of their marriage, and that they appeared to be a perfect couple. E-K- further stated that after the wedding ceremony, they went to lunch at Apple Bee’s restaurant near [redacted]. Finally, B-O- stated that he knew the Petitioner and S-L- because they had attended his financial seminar on life insurance and that he had visited them in their home to describe different insurance policies available to them.

In a second statement provided in response to the Director’s request for evidence (RFE), the Petitioner described how he met his wife on August 27, 2017, in a Stop & Shop in [redacted] New York while searching for a specific hot sauce brand. The Petitioner stated that he recommended a sauce to her, they discussed a pasta recipe, and then they exchanged names and telephone numbers. The Petitioner attested that after this initial meeting, he and S-L- spent time chatting on the phone after work,

² We use initials to protect the privacy of individuals.

discussing their hobbies and interests, and sharing personal information about their lives. The Petitioner claimed that he told S-L- everything about his former spouse and children and how their relationship had failed. According to the Petitioner, after a month of speaking on the phone, they met for a date and spent their time walking the boardwalk on [REDACTED]. After that, they spent more time together until he returned to Nigeria for a period of approximately nine months. When the Petitioner returned to the United States in September 2018, he claimed that they continued to spend even more time together. The Petitioner stated that they continued to go on walks, celebrated each other's birthdays, Thanksgiving, and Christmas, specified whether they had eaten Chinese or Spanish takeout on each occasion, listed the flavors of the cakes they consumed, and asserted that he proposed to the Petitioner on December 25, 2018, in front of their friends. He claimed that they later married at the office of the City Clerk in [REDACTED] New York. Finally, he emphasized that "during the time of our dating, I was not married to anyone else" and that he "had already gotten divorced from [his] ex-wife . . . by the time [he] entered into a relationship with [S-L-]." In response to the RFE, the Petitioner also included statements from three other friends, who claimed to have known the Petitioner and S-L- prior to their wedding ceremony.

The Director denied the VAWA petition, concluding that the Petitioner's statements had not provided sufficient details regarding his intent in marrying the Petitioner and their shared experiences and therefore did not establish his good-faith entry into marriage with S-L-. The Director acknowledged that the Petitioner had provided additional personal statements from his friends and some other documentary evidence but concluded that they were insufficient to show his good-faith entry into marriage with his U.S. citizen spouse. Finally, the Director noted that the Petitioner's statements included contradictory information about how long he had dated S-L- prior to their marriage, and therefore assigned less weight to those statements.

On appeal, the Petitioner resubmits a copy of the statement he provided in response to the RFE and asserts that the Director incorrectly found that the Petitioner had failed to offer sufficient details of his marriage, residence with S-L-, and their shared daily routines. The Petitioner also contends that the Director misstated and misinterpreted the supporting statements from his friends. He includes a 2021 psychosocial evaluation from a licensed mental health counselor in support of his appeal. With respect to his relationship with S-L-, the evaluation indicates that the Petitioner reported that S-L- had approached him in a supermarket in August 2017, that they had talked while they shopped, and that he paid for her groceries. He told the counselor that they had only remained friends because he was still married at that time, but that after he traveled to Nigeria and returned to the United States in 2018, they reconnected and went on their first date to a beach. The Petitioner reported to the counselor that it was at this point that they began their relationship, ultimately leading to his proposal in 2018. The remainder of the information that the Petitioner recounted to the counselor, as reflected in the psychosocial evaluation, focuses primarily on the abuse to which the Petitioner claims S-L- subjected him.

Although the Petitioner claims on appeal that the Director did not take into account the details in the statements he submitted, both from himself and his friends, the record does not support this assertion, as the Director specifically addressed the referenced statements. Further, our review indicates his statements only generally discussed meals, holidays and birthdays that he and the S-L- shared together, attending church and taking walks together, and how they had the approval of friends in marrying S-L-. However, apart from their initial meeting and this general discussion of their experiences, as

well as of the claimed abuse, the Petitioner did not include probative details about the shared experiences with S-L- that he referenced, their courtship, wedding ceremony, engagement, or shared residences to reflect his marital intentions. The Petitioner claimed that he and S-L- went on outings with his children after their wedding ceremony, but he did not describe any particular activities that they participated in or the places they visited with the children. In addition, the psychosocial evaluation he provides on appeal likewise does not include substantive information about his shared experiences or relationship with S-L-, as reported to the counselor, to provide insight into the Petitioner's marital intentions and is focused primarily on the Petitioner's discussion of the abuse to which S-L- allegedly subjected him. Consequently, the evaluation is not sufficient to establish the Petitioner's good-faith entry into marriage with S-L-.

Moreover, many essential details within all of the Petitioner's statements regarding his relationship with and intentions toward S-L- are inconsistent with other information in the record. For example, in his initial statement, the Petitioner claimed that he and S-L- both had prior marriages in common, and that their shared experiences after their marriage ceremony included taking the Petitioner's children on family outings. However, on the VAWA petition itself, the Petitioner claimed that S-L- had only been married to him and had no prior marriages. In addition, the petition indicated that his three children resided in Nigeria, and his 2019 Nigerian divorce decree reflects that his first wife had been awarded sole custody of their children in Nigeria. Likewise, the 2021 psychosocial evaluation on appeal also indicates the Petitioner reported to his licensed mental health counselor that his children resided in Nigeria. Additionally, in his RFE statement, the Petitioner specifically claimed that he started dating S-L- after one month of talking to her on the phone in 2017 and that he was not married to anyone else while he was dating her. However, as the record indicates his divorce was finalized in Nigeria in [REDACTED] 2019, the Petitioner was in fact married to his first wife when he began dating S-L- in 2017 until approximately 19 days prior to their wedding ceremony. Moreover, his assertions in his RFE statement regarding the timeline of his dating relationship is also inconsistent with the 2021 evaluation on appeal, which indicates that he reported that he did not start a dating relationship with S-L- until in September 2018 after he last returned to the United States following a trip to Nigeria, rather than in 2017 as he previously stated. Consequently, his statements contain unresolved, contradictory claims, including whether they began dating soon after meeting in 2017 or after he returned to the United States in September 2018, whether or not he was married to his former spouse while he was dating S-L-, how long he and S-L- dated before becoming engaged, and whether they shared experiences in the United States with his children or whether the children have continuously resided in Nigeria with their mother.

In addition, as noted by the Director, in the Petitioner's initial statement he claimed to have proposed to S-L- months after meeting her, but in his second statement he asserted that they began dating in August 2017, and he proposed about a year and half later in December 2018. Moreover, the Director stated that all but one of the Petitioner's friends had indicated in their statements that the Petitioner was still with S-L- whereas the Petitioner claimed to have separated from S-L- by the time he filed the VAWA petition in July 2019. Noting these discrepancies, the Director afforded the statements from the Petitioner and his friends diminished evidentiary weight. Although we must consider any credible evidence relevant to a 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). Here, we find no error in the Director's discretionary determination to afford less credibility to the Petitioner's testimony after relying on the inconsistency in his statements, where the Director also

properly considered the Petitioner's testimony below but determined that it otherwise lacked probative details to establish his good faith marital intentions. Moreover, we have noted additional discrepancies discussed above that also undermine the Petitioner's claim of good-faith marital intentions. The remaining evidence, including the couple's marriage certificate, photographs of the couple, and supporting affidavits in the record, are not sufficient to establish the Petitioner's good-faith marital intentions in the absence of credible, probative testimony from the Petitioner. Consequently, the Petitioner has not overcome the Director's conclusion that the Petitioner's evidence did not sufficiently establish his good-faith entry into marriage with S-L-, as required.

B. Residence

The Director further determined that the Petitioner had not demonstrated that he resided with S-L-, as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act. As our finding that the Petitioner had not established that he married S-L- in good faith is dispositive of his appeal, 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) ("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 Petitioner is otherwise ineligible).

C. Qualifying Relationship

As an additional matter, the record does not appear to contain sufficient evidence to show that the Petitioner shared a qualifying marital relationship with S-L-. Section 204(a)(1)(A)(iii)(I)(aa) of the Act. As noted above, on his VAWA petition, the Petitioner stated that S-L- had only been married once, to the Petitioner; however, in his accompanying statement, the Petitioner specified that early in their dating relationship he and S-L- realized that one thing they had in common was that they both were previously married. Although the Petitioner provided documents showing that he was divorced from his first wife in Nigeria on [REDACTED] 2019, he did not provide a divorce certificate or other evidence, such as a death certificate, showing that S-L-'s marriage to her first spouse had been legally terminated.³ 8 C.F.R. § 204.2(c)(2)(ii). Consequently, as the Petitioner confirmed that he was aware that S-L- had been previously married early in their own dating relationship, he must provide a copy of S-L-'s divorce certificate or other evidence establishing the termination of her first marriage in any future proceeding.

III. CONCLUSION

In conclusion, the Petitioner has not established that he entered into his marriage to his U.S. citizen spouse in good faith. Consequently, he has not demonstrated that he is eligible for immigrant classification under VAWA.

³ We also note that the psychosocial evaluation provided on appeal reflects that the Petitioner reported that he divorced S-L- in [REDACTED] 2021. If he chooses to file a new VAWA petition, the Petitioner also will be required to provide a copy of their relevant divorce documents.

ORDER: The appeal is dismissed.