



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

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

In Re: 12591155

Date: February 3, 2022

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. Upon *de novo* review, we will dismiss the appeal.

I. LAW

A VAWA self-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 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). The Administrative Appeals Office (AAO) reviews 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 record reflects that the Petitioner, a native and citizen of Kenya, married P-W-,¹ a U.S. citizen, in [redacted] 2006. She filed the instant VAWA petition in October 2016 based on this marriage.

¹ We use initials to protect the privacy of individuals.

The Director denied the VAWA petition, determining, in pertinent part, that the Petitioner had not established that she married P-W- in good faith. The Petitioner has not overcome this determination on appeal.

In the record before the Director, the Petitioner explained that her friend introduced her to P-W- in 2005 so that he could help with handy work, as she had a three-month-old daughter she was raising by herself. The Petitioner stated that she and P-W- became friends and that he helped with everything she requested, including picking up her daughter. She stated that they became comfortable around each other and she started letting him sleep over. In January 2006, while watching a movie together, they became intimate. The following week, P-W- asked her to marry him, but without a ring because he was “too broke.” The Petitioner stated that she was shocked at first but accepted the proposal because P-W- treated her and her daughter with respect and love. She stated that in [redacted] 2006, P-W- moved into her house and they got married in the courthouse with her daughter and friend present.

The Petitioner also provided an affidavit from her sister, M-C-, explaining that she met P-W- in 2005 when he and the Petitioner were dating and attended the marriage ceremony in 2006.² M-C- stated that she tried to discourage the Petitioner from being with P-W- but she seemed happy in the beginning, especially as he helped with the Petitioner’s daughter. M-C- stated that although she initially thought P-W- was out to use the Petitioner, she eventually found him likeable. The Petitioner also provided an affidavit from J-S-, a co-worker, that discusses the claimed abuse but not the courtship.

The Petitioner further submitted documentary evidence, including cable bills from 2014 and 2015, P-W-’s tax forms from 2007 and 2008 listing the Petitioner’s address at [redacted] Lane in [redacted] Texas,³ the Petitioner’s paystubs from 2008 and 2009 with the [redacted] Lane address, bills and invoices from 2009 for pest management, car maintenance, a hotel, and a florist addressed to the Petitioner and P-W- at [redacted] Lane, and copies of what she claimed were health insurance cards.⁴

In addition to the evidence provided with the VAWA petition, the record reflects that the Petitioner filed a prior VAWA petition in May 2015 based on her marriage to P-W-, which the Director denied in July 2016. The record shows that in support of this VAWA petition, the Petitioner submitted a self-affidavit, portions of which are identical to the affidavit submitted with the instant VAWA petition. A notable difference is that with the prior VAWA petition, the Petitioner stated that she and P-W- welcomed a child, B-W-, in 2008, and B-W- is referenced throughout the affidavit. The affidavit with the instant VAWA petition does not mention B-W-.

Moreover, in the decision denying the prior VAWA petition, the Director explained that although the Petitioner had submitted a birth certificate indicating that she and P-W- had a child together,⁵ U.S. Citizenship and Immigration Services (USCIS) had obtained evidence showing that P-W- was not the biological father of the child. Specifically, the Director determined that according to this evidence,

² Although not noted by the Director, the record appears to contain a discrepancy regarding who attended the marriage ceremony.

³ As the Director correctly noted, there is no evidence of submission of these forms.

⁴ The Director correctly explained that the record did not indicate that the Petitioner submitted copies of the insurance cards with the VAWA petition.

⁵ The Petitioner did not submit this birth certificate with the instant VAWA petition.

the Petitioner had used fraudulent means to establish a DNA match by having the true biological father of her child, S-M-, impersonate P-W- during the DNA test, and the Petitioner was present for the testing. As a result, the Director determined that the Petitioner was not a credible source of evidence.⁶

On appeal, the Petitioner contends that she has provided sufficient evidence that she married P-W- in good faith, as she provided details of their courtship and marriage that indicate a good faith marriage.⁷ Upon *de novo* review, however, the Petitioner has not established that she married P-W- in good faith. We agree with the Director's assessment of the prior VAWA petition regarding the Petitioner's diminished credibility due to her efforts to subvert the DNA testing process and falsely claim P-W- as the father of B-W- for immigration purposes. Notably, the record reflects that the Petitioner has not addressed the Director's concerns in the instant VAWA petition and has omitted any reference to B-W-. The remaining affidavits and documentary evidence provide little additional insight into the Petitioner's intent in marrying P-W-, and regardless, we afford them little weight as the Petitioner's conduct calls into question their reliability. See 8 C.F.R. § 204.2(c)(2)(i) (explaining that we determine, in our sole discretion, what evidence is credible and the weight to give to such evidence).

The Director additionally determined that the Petitioner had not established that she and P-W- resided together, as required under section 204(a)(1)(A)(iii)(II)(dd) of the Act. As the Petitioner's inability to establish her good faith marriage to P-W- is dispositive of her 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 applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not established that she married her U.S. citizen spouse in good faith. Consequently, she has not established her eligibility for immigrant classification under VAWA.

ORDER: The appeal is dismissed.

⁶ The Director noted additional concerns about the prior VAWA petition, including evidence that the Petitioner had added S-M- to deeds of trust to two residences she owned in Texas in 2005 and 2006, that she and S-M- registered a business together in 2006, and that she and S-M- had been legally married in Kenya in 1996 and the marriage had never been legally terminated. The Director afforded little weight to the Petitioner's response to a notice of intent to deny (NOID), in which she claimed: that she had known S-M- in Kenya and he was the father of her first child, but the relationship ended in 2005; that she put S-M-'s name on the deed to help his credit; that S-M- was not the father of her second child; and that an unnamed friend of P-W-, with whom she had a one-night stand, accompanied her to the DNA testing procedure.

⁷ The Petitioner places particular emphasis on the role that she played in caring for members of P-W-'s family. In her affidavit, the Petitioner stated that P-W-'s father was diagnosed with lung cancer in 2014 and that she visited him about once per week until his death.