U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 20964897

Date: JUNE 1, 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 did not establish he resided with his abuser spouse or that he married his U.S. citizen spouse in good faith, as required. The matter is now before us on appeal. Upon *de novo* review, we will dismiss the appeal.

I. LAW

A petitioner who is the spouse or former spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in part, that they entered into the marriage with the U.S. citizen spouse in good faith, and the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii) of the Act. Among other things, a petitioner must establish that they have resided with the abusive spouse. Section 204(a)(1)(A)(iii)(II)(dd) of the Act; 8 C.F.R. § 204.2(c)(1)(i)(D). The Act defines a residence as a person's general abode, which means their "principal, actual dwelling place in fact, without regard to intent." Section 101(a)(33) of the Act, 8 U.S.C. § 1101(a)(33). Although there is no requirement that a VAWA petitioner reside with their abuser for any particular length of time, a petitioner must show that they did, in fact, reside together. Section 204(a)(1)(A)(iii)(II)(dd) of the Act; 8 C.F.R. § 204.2(c)(1)(v). Evidence of joint residence may include employment, school, or medical records; documents relating to housing, such as deeds, mortgages, rental records, or utility receipts; birth certificates of children; insurance policies; or any other credible evidence. 8 C.F.R. § 204.2(c)(2)(iii).

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). Petitioners are "encouraged to submit primary evidence whenever possible," but may submit any relevant, credible evidence in order to establish eligibility. 8 C.F.R. § 204.2(c)(2)(i). U.S. Citizenship and Immigration Services (USCIS) determines, 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).

II. ANALYSIS

In this case, the Petitioner married A-R-[1], a U.S. citizen, in [redacted] 2016. In Part 10 of his VAWA petition, the Petitioner indicated that he lived with A-R- from [redacted] 2016 to March 2017 and more specifically, from December 28, 2016, through March 20, 2017, the Petitioner and A-R- lived together on [redacted] Beach Street in [redacted] Florida.

In his March 2018 declaration, the Petitioner detailed that he and A-R- met in September 2015. They dated for about eight months before deciding to marry in [redacted] 2016. After about four months of living together, the Petitioner contends that A-R- became more aggressive and colder towards the relationship; she began to curse at him in front of friends and family for small things and she wanted to completely isolate him from everything in his life. She used derogatory terms to humiliate him and she soon started using drugs and physically abusing him. The Petitioner asserts that A-R- ultimately moved out and asked for a divorce. The Petitioner submitted a copy of the marriage certificate and a copy of an unsigned 2016 joint tax return dated December 29, 2017 and marked "Client Copy"; the joint tax return detailed that the Petitioner and A-R- resided on [redacted] Beach Street in [redacted] Florida. The Petitioner also submitted a December 2016 consumer account application indicating that the Petitioner and A-R- resided in [redacted] Pointe Place in [redacted] Florida. An auto endorsement confirmation from October 2016 and a June 2017 auto policy indicated that the Petitioner resided in [redacted] Place in [redacted] Florida.

The Director issued a request for evidence (RFE), stating, among other things, that the evidence did not establish that the Petitioner and A-R- shared a residence during marriage. Specifically, the Director noted that while the petition indicated that the Petitioner and A-R- resided together on [redacted] Beach Street from December 28, 2016, until March 20, 2017, the submitted documents showed addresses on [redacted] Place and [redacted] Pointe Place in [redacted] Further, the only document with the [redacted] Beach address was the unsigned 2016 joint tax return referencing a date of December 29, 2017, well after the Petitioner's and A-R's claimed joint residence and divorce. The Director requested an explanation of the apparent discrepancies and additional documentation that the Petitioner resided with his spouse, providing examples of evidence that may establish the couple's shared residence.

In response to the RFE, the Petitioner submitted a statement. He asserted that he and A-R- moved in together in January 2016 to a home on [redacted] Pointe Place. In September 2016, they and his twin brother moved in together to a place in [redacted] Place and in January 2017, they moved to a home on [redacted] Beach Street in [redacted]; A-R- moved out in April 2017. In support, the Petitioner submitted a letter from his twin brother stating that he lived with the Petitioner and A-R- at [redacted] Pointe Place, [redacted] Place, and [redacted] Beach Street; no specific dates were provided for when the twin brother resided at the referenced locations with the Petitioner and A-R-.

The Director denied the petition, finding that the discrepancies in the record relating to the reported addresses and corresponding dates when the Petitioner and A-R- resided together did not satisfy the Petitioner's burden of establishing that he and his spouse resided together. The Director also determined that the Petitioner did not establish that he entered the marriage with A-R- in good faith.

[1] We use initials to protect the identities of the individuals in this case.

On appeal, the Petitioner states that he was in a terrible motor vehicle accidence that has severely impaired his ability to properly remember details regarding his past. In support, he submits evidence of his September 2019 car accident. He also submits a statement, letters in support from his brother and a friend, and financial documents in support of his contention that he resided with his U.S. citizen spouse.

We adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *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 [of Immigration Appeals] need not write at length merely to repeat the IJ's [Immigration Judge'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.").

The Petitioner's arguments on appeal are not sufficient, standing alone or viewed in totality with the underlying record, to establish his joint residence with A-R-. As noted above, "residence" means a person's principal, actual dwelling place, without regard to intent. Section 101(a)(33) of the Act. The preamble to the 1996 interim rule, which confirmed that this definition of residence is binding for VAWA self-petitioners, specifies that "[a] self-petitioner cannot meet the residency requirements by merely . . . visiting the abuser's home . . . while continuing to maintain a general place of abode or principal dwelling place elsewhere." Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant; Self-Petitioning for Certain Battered or Abused Spouses and Children, 61 Fed. Reg. 13061, 13065 (Mar. 26, 1996).

Here, the record does not show that A-R-'s principal, actual dwelling place was with the Petitioner. As noted by the Director, while the Petitioner stated that he and A-R- moved in together in January 2016 to a home in [redacted] Pointe Place, and then moved to [redacted] Place in September 2016, and to a home in [redacted] Beach Street in [redacted] Florida in January 2017, the Petitioner has not submitted sufficient documentation to establish that he resided with A-R-. We note that the consumer account application, completed in December 2016, references the Petitioner's and A-R's address as a home in [redacted] Pointe Place; however, the Petitioner detailed in his February 24, 2020, statement and on his VAWA petition that he and A-R- resided in [redacted] Beach Street as of November 2016.

Moreover, the joint tax return for 2016 indicates that the Petitioner and A-R- resided together on [redacted] Beach Street as of December 2017, even though A-R purportedly moved out in April 2017. While we acknowledge that on appeal the Petitioner submitted another copy of the 2016 joint tax return, it is unclear why the tax return submitted on appeal is dated March 16, 2017, while the previously submitted copy was dated December 29, 2017. We also note that the Petitioner's auto policy, covering the term from October 11, 2016, through April 11, 2017, lists the home address as [redacted] Place in [redacted] even though the Petitioner states he was living on [redacted] Beach Street as of January 2017. Moreover, while the Petitioner states that he and A-R- moved in together in January 2016 to their home in [redacted] Pointe Place, A-R-'s 2016 Form W-2, Wage and Tax Statement, indicates A-R-'s address as one in [redacted], Florida. The statements from the Petitioner's brother and his friend have limited probative value, as they lack specific dates or details, and the do not prove any description of the actual residence evincing the Petitioner's life there with A-R-. Based on the inconsistencies

relating to dates and addresses, we agree with the Director that the Petitioner has not met his burden of establishing that he resided with his U.S. citizen spouse.

The Director further determined that the Petitioner had not demonstrated that he married A-R- in good faith, as required by section 204(a)(1)(A)(iii)(II)(bb) of the Act. As the Petitioner's inability to establish that he resided with A-R- 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 applicant is otherwise ineligible). In conclusion, the Petitioner has not established that he resided with his U.S. citizen spouse. Consequently, he has not demonstrated that he is eligible for immigrant classification under VAWA. The petition will therefore remain denied.

ORDER: The appeal is dismissed.