U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 19235508

Date: JUN. 2, 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). The matter is now before us on appeal. On appeal, the Petitioner submits new evidence and a brief asserting that she has established eligibility for the benefit sought. The Administrative Appeals Office (AAO) reviews 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.

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).

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 (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. Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i).

II. ANALYSIS

The Petitioner, a native and citizen of China, married her U.S. citizen spouse, B-F-,[1] in [redacted] 2016. She filed her VAWA petition in November 2018. In support of her VAWA petition, the Petitioner submitted a personal affidavit, third-party letters of support, a psychological evaluation, financial and insurance records, and photographs. In response to a request for evidence (RFE) from the Director, the Petitioner submitted a supplemental personal affidavit, a second psychological evaluation, medical records, text messages, and additional financial documents.

The Director denied the petition, determining, in pertinent part, that the submitted evidence was not sufficient to establish that the Petitioner entered into marriage with B-F- in good faith. The Director indicated that the Petitioner's affidavit and third-party letters of support lacked probative details related to their courtship, wedding ceremony, or other memorable experiences in their married life; did not sufficiently detail their relationship prior to marriage; and failed to substantively describe their mutual interests and shared experiences. The Director acknowledged the submitted psychological evaluations, in addition to the medical records that appear to be related to the Petitioner's pregnancy and abortion, but found that this information did not establish her intent when entering the marriage. The Director found that the other supporting documents were not sufficient to establish shared financial responsibilities and a commingling of resources. Specifically, the bank statements contained few transactions associated with a *bona fide* marriage, the text messages captured one-time events without additional context, and the property tax bill and escrow document were in the Petitioner's mother's name.

In her brief on appeal, the Petitioner asserts that she has submitted sufficient evidence to meet her burden of proving her eligibility by a preponderance of the evidence. She contends, among other things, that the Director erred in finding she did not provide sufficient credible evidence to establish that she entered into marriage with B-F- in good faith. To support her contention, she submits a third personal affidavit and a polygraph examination report, and refers to her previously submitted evidence.

Upon *de novo* review, the Petitioner has not established by a preponderance of the evidence that she entered into her marriage with B-F- in good faith. At the outset, we note that in her third affidavit, submitted on appeal, the Petitioner contradicts her previous affidavit when describing how B-F- proposed to her. In the most recent affidavit, the Petitioner states that she was lying in bed with B-F- when he unexpectedly pulled out a ring and asked her to marry him. In contrast, she declared in her initial affidavit submitted with the VAWA petition that she came home from school one night, went upstairs to the bedroom, turned on the light, and saw rose petals on the bed and floor. B-F- knelt down on one knee and asked her to marry him. In submitting this evidence, the Petitioner has provided inconsistent descriptions of a significant event in her relationship with B-F- prior to marriage. Moreover, she has not offered an explanation to address why she provided contradictory information in her sworn affidavits.

The Petitioner submits on appeal a polygraph examination report to support her assertion that she made credible statements to U.S. Citizenship and Immigration Services regarding her intent upon entering into marriage with B-F-. In federal court proceedings, evidence of the results of a polygraph

[1] We use initials to protect identities.

test is inadmissible and may not be "introduced into evidence to establish the truth of the statements made during the examination." *United States v. Bowen*, 857 F.2d 1337, 1341 (9th Cir. 1988); *see also United States v. Frogge*, 476 F.2d 969 (5th Cir. 1973), cert. denied, 414 U.S. 849 (1974). In immigration proceedings, however, documentary evidence need not comport with the strict judicial rules of evidence. Instead, as in deportation proceedings, "such evidence need only be probative and its use fundamentally fair, so as not to deprive an alien of due process of law." *Matter of Velasquez*, 19 I&N Dec. 377 (BIA 1986); *see also Matter of D*, 20 I&N Dec. 827, 831 (BIA 1994). In the present case, the polygraph results are not found to be probative as they do not address her inconsistent sworn affidavits. Furthermore, the value of the polygraph is questionable for the same reasons that have led the federal courts to find them inadmissible. As previously mentioned, the results of a polygraph test may not be used to establish the veracity of the assertion tested. In establishing this rule, the courts have determined that "the polygraph has not yet been accepted . . . as a scientifically reliable method of ascertaining truth or deception." *United States v. Gloria*, 494 F.2d 477 (5th Cir. 1974).

In addition, our review of the record supports the Director's determination that the third-party letters of support lacked probative details related to the Petitioner's relationship with B-F- prior to their marriage because they did not contain detailed and specific descriptions of shared experiences and interactions between them. We also concur with the Director's finding that the supporting documents, such as the bank statements, insurance policy, and text messages, reflected minimal transactions related to shared financial responsibilities and captured limited interactions between the Petitioner and B-F-.

Based on the foregoing, the Petitioner has not submitted consistent, probative evidence to establish, by a preponderance of the evidence, that she entered into a good faith marriage with B-F-. *See Matter of Chawathe*, 25 I&N Dec. at 375-76 (describing the petitioner's burden under the preponderance of the evidence standard and explaining that in determining whether a petitioner has satisfied their burden, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence). Therefore, she has not established her eligibility for immigrant classification under VAWA.

The Director further concluded that the Petitioner had not met her burden of establishing her joint residence with B-F-, as required under section 204(a)(1)(A)(iii)(II)(dd) of the Act. Since the identified basis for denial is dispositive of this matter, we decline to reach and hereby reserve the Petitioner's arguments regarding whether she has also demonstrated joint residence. *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).

ORDER: The appeal is dismissed.