



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

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

In Re: 20487233

Date: JUN. 02, 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 in the Immigration and Nationality Act (the Act) at section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). The Director of the Vermont Service Center denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition), concluding that the Petitioner did not establish she resided with her abuser spouse, as required, and the matter is before us on appeal. Upon *de novo* review, we will dismiss the appeal.

I. LAW

A petitioner who is the spouse of a United States citizen may self-petition for immigrant classification if the petitioner demonstrates that they entered into the marriage with a United States citizen spouse in good faith and that during the marriage, the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii)(I) of the Act; 8 C.F.R. § 204.2(c)(1)(i). In addition, petitioners must show that they are eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, resided with the abusive spouse, and are a person of good moral character. Section 204(a)(1)(A)(iii)(II) of the Act; 8 C.F.R. § 204.2(c)(1)(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). While U.S. Citizenship and Immigration Services (USCIS) 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). 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 is a native and citizen of Nigeria who entered the United States in March 2016 as a B1/B2 nonimmigrant visitor. In [REDACTED] 2016 she married a U.S. citizen, Z-R-M-,¹ with whom she claims she resided from December 2016 until August 2017. In September 2018 she filed her VAWA petition. With the petition and in response to the Director's request of evidence (RFE) the Petitioner

¹ We use initials to protect individual identities.

submitted personal affidavits, medical reports, financial records, a police report, letters of support, civil documents, and photographs. She also submitted her spouse's criminal record search results and a court order for child support payments from a previous relationship. The Director denied the petition, finding that the Petitioner did not establish that she had shared residence with Z-R-M-. On appeal the Petitioner submits a brief and letters of support.

In her affidavits, the Petitioner described meeting Z-R-M- at a bus stop in April 2016, that afterward they had phone conversations, and then went on their first date a week later. The Petitioner recalled that they had a connection, fell in love, laughed, cooked together, enjoyed watching basketball and soccer, had movie nights, went sightseeing, and gazed at stars. She claimed that Z-R-M- proposed on his knee in front of friends, they planned a future, and they were inseparable. The Petitioner stated that because apartment applications were rejected when using Z-R-M-'s information, they obtained an apartment using her name only, that they also had difficulty opening joint bank accounts, and that she later learned Z-R-M- had a criminal record. Responding to the Director's RFE, the Petitioner claimed she was unable to obtain proof from the apartment complex because another company bought it and refused to issue a letter and that she does not know why bank statements were addressed to Z-R-M-only.

The Petitioner claimed that when she once asked Z-R-M- about overdraft charges on their bank account he pulled her hair and spit on her, and she contended that he then isolated her from friends by being angry when they visited until they stopped coming. The Petitioner maintained that after their first apartment was burglarized in January 2017, they changed apartments in the same complex. She explained that the police report only identifies her because Z-R-M- warned her not to involve police and she feared he would become violent.

The Petitioner stated that four months into the marriage she had vaginal bleeding, went to a hospital, and was found to have fibroids. Medical records provide a diagnosis of fibroid uterus and abnormal uterine bleeding. The Petitioner described numerous trips to a hospital and contended that her health issues challenged Z-R-M-'s commitment to her as he stopped caring about her, began staying away from home, would not provide financial information to the hospital, and would not answer her phone calls. She asserted that Z-R-M- began calling her names, threatened to call U.S. Immigration and Customs Enforcement (ICE) about her, and forced her to have sex even though she was in physical pain. The Petitioner maintained that she cannot divorce Z-R-M- because she does not know his whereabouts, but she fears he will come back to harm her.

In a letter of support, A-E-, a friend, stated that he had visited the couple and he recalled the Petitioner calling him while in physical pain and explaining that Z-R-M- did not come home anymore. Another friend, F-I-O-, indicated that Z-R-M- seemed charming at first, that he asked F-I-O- for help picking a ring, and that she attended their courthouse wedding. F-I-O- stated that she visited the couple, recalled that Z-R-M- did not want the Petitioner to call police after the burglary, and observed that while the Petitioner was ill Z-R-M- became cruel to her. C-F-M- wrote that she met Z-R-M- on three occasions and lunched at their apartment, but described him as controlling, yelling at the Petitioner when she was in physical pain, and ordering C-F-M- out of their apartment when she objected.

Evidence submitted by the Petitioner included portions of Z-R-M-'s criminal record search that indicate he was charged in 1994 with possession of a controlled substance and that he was charged in

2006 with unlawful possession of a firearm by a felon. A 2015 court order for child support payments shows that Z-R-M- was in arrears.

In denying the petition the Director found evidence insufficient to establish shared residence. The Director concluded that two 2017 bank statements listed both names but were addressed to Z-R-M- only while it was unclear that each of them used the account, and no transactions were for household expenses. The Director concluded that a lease application listed both names but was not an actual lease, and though acknowledging the Petitioner's explanation that they used her information because an application with Z-R-M- was rejected, the Director found the document of indeterminable evidentiary weight. The Director acknowledged the Petitioner's explanation that she was unable to obtain proof they resided together from the company that bought the apartment complex but determined that without corroborating evidence the claim had limited probative value. The Director noted that a 2017 police report indicated the apartment was burglarized, but the report identified only the Petitioner, and the Director further found that a letter from an energy company included no account number so was of limited probative value, that other documentation contained only one name so offered limited evidence of commingled finances or joint residence, and that third-party affidavits were vague without describing interactions between the Petitioner and Z-R-M- that shed light on a shared residence.

On appeal, the Petitioner asserts, through counsel, that she obtained all the evidence she could, that the evidence must be considered cumulatively, and that she has proved by a preponderance of evidence that she lived with Z-R-M-. She contends that she already explained the trouble adding Z-R-M- to the lease and acquiring joint bank accounts because of his criminal record and substantial child support obligations, and that the new apartment complex owners refused to issue a letter. The Petitioner maintains that the energy company letter is one of the few documents she could obtain listing both of their names and argues that there is no reason for her spouse to be listed on her medical records, that it is irrelevant that bank statements were addressed to him only when both were listed as account holders, and that the bank account was closed due to overdrafts so there was not much displayed activity. The Petitioner further contends that Z-R-M- threatened her not to call police after their apartment burglary and describes it as making sense that he wanted to avoid police interaction given his criminal history.

A letter submitted on appeal from T-L-M- states that he went to the Petitioner's apartment in February 2017 to have her braid his hair and that Z-R-M- was nice, but on the following occasion he heard Z-R-M- yelling at the Petitioner not to invite anyone. A letter from P-S- states that she went to the Petitioner's apartment to have her hair braided, that Z-R-M- was welcoming, that the couple seemed affectionate, and that they discussed having children.

Upon review of the record, we agree with the Director that the Petitioner has not established that she shared residence with Z-R-M-. The arguments on appeal are not sufficient, standing alone or viewed in totality with the underlying record, to overcome the Director's decision. We recognize the Petitioner's argument that she submitted the evidence she was able to obtain, however that evidence offers minimal insight to establish shared residence. Although the Petitioner again asserts on appeal that she had trouble acquiring a joint bank account, the record contains bank statements listing both the Petitioner and Z-R-M- as account holders; however, the limited number and types of transactions do not illustrate joint use or activity normally related to household purchases. Further, as noted by the

Director, the police report from the 2017 apartment burglary mentioned only the Petitioner. Her statement that Z-R-M- wanted to avoid police interaction given his criminal background does not adequately explain why he was not mentioned on the report, as the record indicates the most recent criminal charges against him were in 2006, eleven years before the incident.

In her affidavits the Petitioner primarily discusses her medical condition and the behavior of Z-R-M-, but she provides no description of their residence and offers no detail of the couple's daily routine that would depict shared residence. The Petitioner has not provided specific, probative details substantiating the claim that she resided with Z-R-M-, such as describing home furnishings, neighbors, daily routines, or any of their shared belongings. She also did not provide other details regarding who paid utilities and how they paid rent.

Although we acknowledge the explanation that the Petitioner provided the documentary evidence that she was able to obtain, she has not otherwise provided sufficient evidence to demonstrate she shared residence with Z-R-M-. Although friends of the Petitioner indicate that they visited the couple and three of them describe witnessing Z-R-M- yelling at the Petitioner, the letters offer limited probative value as they are general in nature, lack specific details of the events they claim to have witnessed or of any other interactions they observed at the Petitioner's apartment, and they do not provide any description of the actual residence evincing the Petitioner's life there with Z-R-M-.

As the Petitioner has not established that she shared residence with Z-R-M-, she has not demonstrated that she is eligible for VAWA classification.

ORDER: The appeal is dismissed.