



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

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

In Re: 18783133

Date: JUN. 9, 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 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 remand the matter to the Director for the entry of a new decision consistent with our analysis below.

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. Good faith requires that a petitioner has not "entered into the marriage to the abuser for the primary purpose of circumventing the immigration laws." 8 C.F.R. § 204.2(c)(1)(ix). Evidence that the marriage was entered into in good faith may include, but is not limited to: shared insurance policies, property leases, income tax forms, and bank accounts; testimony or other evidence regarding the couple's courtship, wedding ceremony, shared residence, and experiences together; birth certificates of children born to the relationship; police, medical, or court documents providing information about the relationship; or affidavits of persons with personal knowledge of the relationship. 8 C.F.R. § 204.2(c)(2)(vii).

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). 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

The record establishes that the Petitioner married A-V-¹, a U.S. citizen, in [] 2016. In his initial six-page affidavit submitted with his VAWA petition, the Petitioner stated that he met A-V- while staying at a hotel with his ailing mother and that A-V- worked at the hotel. After a few weeks of talking each morning, the Petitioner and A-V- started going to downtown [] to walk and stop at local bars for drinks. After months of spending time together, the Petitioner and A-V- moved in together in January 2015. While the first couple of months were “just perfect,” the Petitioner states that everything soon changed; A-V- was arrested for assault and was drinking heavily. In [] 2016, they got married, but in the following months, A-V- failed to complete his diversion program, was put on probation, and got a DUI in the fall of 2018. As his drinking became uncontrollable, A-V- started abusing the Petitioner, hitting him, calling him names, destroying property, and causing the Petitioner to be fearful. A-V- was ultimately arrested in [] 2019 regarding his 2015 arrest and the Petitioner reports that they have not lived together since. In addition to his affidavit, the Petitioner submitted the following in support of his contention that the marriage was entered in good faith: a marriage certificate, select copies of cell phone bills addressed to the Petitioner and indicating A-V-’s cell phone number on the same plan, photographs, incomplete tax returns, and a 2015 joint lease.

The Director issued a request for evidence (RFE) seeking, in part, additional documentation demonstrating that the Petitioner entered the marriage in good faith. The Director noted that the documents in the record did not provide insight into the couple’s intentions for entering into the marriage. Further, the tax documentation was incomplete and was of minimal evidentiary value. Moreover, the submitted lease was for the period prior to the marriage and without information regarding who made the rental payments, it had limited evidentiary value in establishing shared financial responsibility. As for the Petitioner’s affidavit, the Director determined that it did not describe mutual interests, dating in detail, nor did it provide any information which could assist in demonstrating the Petitioner’s intent for entering into the marriage.

In response to the RFE, the Petitioner submitted an updated five-page affidavit providing additional details about the relationship and marriage and addressing the Director’s concerns regarding the lack of shared financial responsibility; the 2015 joint lease indicating that if not terminated, the lease will continue on a month-to-month basis; a letter from the landlord stating that the Petitioner and A-V- resided at the same address; bank statements establishing that the Petitioner paid rent each month; joint tax returns; a letter from the U.S. Department of Treasury establishing that A-V- and the Petitioner made payments on behalf of A-V- in April 2018 for a delinquent child support debt; evidence that the Petitioner paid A-V-’s bond in [] 2018; documentation establishing that the Petitioner purchased a star on behalf of A-V- in 2015; a statement in support from the Petitioner’s friend; and photographs of A-V- and the Petitioner. The Director denied the petition, referencing the documentation submitted by the Petitioner in response to the RFE and concluding that the Petitioner did not establish his good faith marriage.

On appeal, the Petitioner submits a brief arguing that the preponderance of the evidence shows that he married A-V- in good faith. He details that a lease was provided confirming that he resided with

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

A-V-. Further, the Petitioner notes that he submitted joint tax returns and multiple affidavits describing his relationship and marriage with A-V- in detail. The record also contained a letter from their landlord confirming that Petitioner and A-V- lived together, evidence that the Petitioner had paid a criminal bond for A-V- and had paid A-V-'s child support payment, a statement from a friend regarding the relationship between the Petitioner and A-V-, and documentation evidencing a shared cellphone plan. The Petitioner contends that the Director "favorably considered the evidence to establish the validity of the marriage" but "[i]nexplicably, the Director then stated, *without analysis*, that the record did not contain satisfactory evidence to demonstrate that [the Petitioner] entered his marriage in good faith" The Petitioner also submits new documentation on appeal to establish a good faith marriage, including evidence that he and A-V- adopted a dog in August 2015, and a handwritten note from A-V- to the Petitioner, dated September 30, 2015, expressing his love and gratitude to the Petitioner and noting that he "can't imagine what my life could be in this moment without you."

We concur with the Petitioner that the Director does not sufficiently explain the basis for denying the petition. When denying a petition, the Director must fully explain the reasons for denial to allow the Petitioner a fair opportunity to contest the decision and provide us an opportunity for meaningful appellate review. *Cf. Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that the reasons for denying a motion must be clear to allow the affected party a meaningful opportunity to challenge the determination on appeal). The regulation at 8 C.F.R. § 103.3(a)(1)(i) states that when denying an application, the Director shall explain in writing the specific reasons for denial.

Therefore, we withdraw the Director's decision and remand the matter to the Director to weigh the evidence in this case, including the documentation submitted on appeal, and issue a new decision that explains the basis of the Director's determination so that the Petitioner fully understands the Director's conclusion. The Director may request any additional evidence considered pertinent to the new determination and any other issues. As such, we express no opinion regarding the ultimate resolution of this case on remand.

ORDER: The decision of the Director is withdrawn. The matter is remanded for further proceedings consistent with the foregoing analysis and entry of a new decision.