



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

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

In Re: 17256396

Date: JUN. 09, 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), and the matter is before us on appeal. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Petitioners who are spouses of U.S. citizens may self-petition for immigrant classification if they demonstrate they entered into marriage with the U.S. citizen in good faith and that, during the marriage, they were battered or subjected to extreme cruelty perpetrated by their U.S. citizen spouse. Section 204(a)(1)(A)(iii) of the Act; 8 C.F.R. § 204.2(c)(1)(i). In addition, among other things, a petitioner must establish their good moral character and that they have resided with the abusive spouse. Section 204(a)(1)(A)(iii)(II)(bb) and (dd) of the Act.

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 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). 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 July 2016 as B2 nonimmigrant visitor and changed to F1 student status in November 2018. In [] 2017 she married a U.S. citizen, J-J-F-,¹ with whom she claims she resided from February 2017 until April 2018. The couple divorced in [] 2018 and the Petitioner filed her VAWA petition in December 2018. With the petition she submitted a personal affidavit, a biopsychosocial assessment, letters of support from friends, and civil documents. The Director denied the petition, finding that the Petitioner did not

¹ We use initials to protect individual identities.

establish that she resided with J-J-F- and that she entered the marriage in good faith. On appeal the Petitioner submits an updated affidavit and photographs.

In her affidavit below, the Petitioner briefly described meeting J-J-F- and the two being drawn to each other. She states that he “partially” moved into her apartment in February 2017 due to problems with a cousin where he lived, although he maintained a presence there because it was close to his workplace. She maintained that the couple’s relationship then moved quickly and they “quietly” married in [REDACTED] 2017. She claimed that they planned for J-J-F- to completely move in after she got a larger apartment, but when the apartment management would not add J-J-F- to the lease, she learned that he had been dishonest about his work, education, and borrowing money from her. The Petitioner stated that when she confronted J-J-F- he became violent, starting a cycle of physical and mental cruelty. She recalled that after a June 2017 outburst, J-J-F- returned to his cousin’s residence and she later learned that he was beaten over a debt and hospitalized. The Petitioner stated that J-J-F- called her in October 2017 from jail and contacted her again in March 2018, so she allowed him to return to her apartment, and that he then left to collect things from his mother’s house but did not return and she later located him in jail, where he refused to see her.

In a statement of support, a friend, O-A-, indicated that she never met J-J-F- although she had tried to and that the Petitioner seemed blinded by love and did not listen to concerns. O-B-, another friend, wrote that she was aware of the marriage and the events that led to divorce.

In denying the petition the Director determined that the Petitioner’s affidavit lacked details of when she resided with J-J-F-, that documentary evidence which could be reasonably expected was not submitted, and that the divorce decree indicates that the couple separated in July 2017 while the Petitioner claimed they resided together until April 2018. The Director further noted that the Petitioner’s affidavit primarily focused on her spouse’s behavior toward her but lacked probative detail and did not provide insight into the dynamics of the marriage or describe mutual interests, a courtship, or events demonstrating involvement prior to or during marriage to demonstrate her intent when she entered the marriage. The Director also found that third-party affidavits lacked probative detail and did not offer specific information regarding the Petitioner’s residence and did not describe any interactions between the Petitioner and her spouse to shed light on the relationship or her intent when entering marriage. The Director concluded that evidence was insufficient to establish shared bonds normally associated with a *bona fide* marriage.

On appeal, the Petitioner argues that she submitted her own affidavit and affidavits from those who provided her support but has no other means to show her eligibility due to the ineptitude of her ex-spouse. She again states that because he lacked rental or credit history and his driver’s license was suspended, he could not be added to her lease or car insurance, and he could not open an account with her because he had debts. The Petitioner reiterates that he moved in with her in February 2017 after an altercation with his cousin but kept a partial presence there due to proximity to his work, and that he slept at the one-bedroom apartment she shared with her young daughters, but she could not let him stay completely, which is why she wanted a two-bedroom townhouse. The Petitioner contends that she erred on her divorce document about a July 2017 separation because she was deeply traumatized and told her attorney that they separated the day she actually visited J-J-F- in the hospital after his

beating.² She contends that J-J-F- returned in March 2018 to reconcile with her. The Petitioner maintains that she believed J-J-F- was trying to be a better person but then realized after marriage he did not intend to change, and her questioning him triggered abuse.

We find that the Petitioner's arguments on appeal are not sufficient, standing alone or viewed in totality with the underlying record, to meet her burden of establishing that she resided with J-J-F- and entered the marriage in good faith.

As the Director indicated, the Petitioner's affidavit below primarily addressed J-J-F-'s behavior. Beyond her assertions of J-J-F-'s abusive behavior, the Petitioner offered few details and little insight into the development of their relationship, shared experiences, mutual interests, or wedding ceremony to establish her intent upon entering marriage. She also did not describe a daily routine or provide other details to demonstrate that she and J-J-F- shared residence together. Letters from the Petitioner's friends indicated awareness of the marriage, but they did not describe observations of interactions between the Petitioner and J-J-F- or of visiting their residence, nor did they provide details of any accounts provided to them by the Petitioner.

On appeal the Petitioner does not dispute the Director's finding that her affidavit and those of third parties were general with little detail, but rather she asserts that she has no other means to show her eligibility. While we recognize that some traditional forms of evidence of a good faith marriage and shared residence may be difficult to obtain as the result of an abusive relationship, the Petitioner's affidavit and those of friends lack probative detail of her good faith intentions at the time of the marriage and to demonstrate shared residence.

Although on appeal the Petitioner offers an explanation for the discrepancy about the date on which she and J-J-F- separated, the record does not establish that they resided together before separating in June or July 2017 or reconciled and resided together after March 2018 as she claims on appeal, and she has not provided additional detail that addresses other deficiencies identified by the Director. We agree with the Director that evidence is insufficient to establish that the Petitioner resided with J-J-F- and entered the marriage in good faith. As the Petitioner has not established these requirements, she has not demonstrated that she is eligible for immigrant classification pursuant to VAWA.

ORDER: The appeal is dismissed.

² The biopsychosocial assessment indicates that the Petitioner was diagnosed with PTSD due to a rape in Nigeria, miscarriages during her first marriage for which she was blamed, and violence from J-J-F-.