U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 20915905

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), and the matter is before us on appeal. The Administrative Appeals Office (AAO) reviews the questions in this matter de novo. *See 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 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 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). 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 Afghanistan, entered the United States in July 2019 on a K-1 visa. He married S-M-,[1] a U.S. citizen in [redacted] 2019. He filed the instant VAWA petition in July 2020 based on this marriage. As evidence of his good faith marriage, the Petitioner submitted a personal statement, third party statements, a copy of a GEICO automobile insurance policy, and miscellaneous family photographs. The Director determined that the evidence was insufficient to establish that the Petitioner married S-M- in good faith. Specifically, the Director noted that the affidavits lacked probative details regarding the Petitioner's relationship, the insurance policy was not issued in his name, and the photographs were generally insufficient evidence that he entered into the marriage with S-M- in good faith. The Director issued a request for evidence (RFE) seeking additional evidence that the Petitioner married his U.S. citizen spouse in good faith. In response, the Petitioner submitted additional third party affidavits, a copy of his 2020 federal tax return, and additional family photographs. The Director considered this evidence and denied the VAWA petition, concluding that the Petitioner had not submitted sufficient evidence to establish, by a preponderance of the evidence, that he married S-M- in good faith.

On appeal, the Petitioner argues that the Director erred in discounting his sister-in-law's statement and omitting discussion of his charity care application. He maintains that his previously submitted evidence including his sister-in-law's statement and charity care application sufficiently establish that he entered into marriage with S-M- in good faith.

We adopt and affirm the Director's decision insofar as the Director determined the Petitioner has not established that he entered into marriage with S-M- in good faith. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994) (noting that the "independent review authority" of the Board of Immigration Appeals (Board) "does not preclude . . . adopting and affirming the decision [below], in whole or in part, when [the Board is] in agreement with the reasoning and result of that decision"); *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 [Immigration Judge's (IJ'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 unavailing. The record reflects that the Director considered the third party statements including his sister-in-law's statement, federal tax return, and photographs and adequately explained why they were insufficient evidence of a good faith marriage. Specifically, the Director explained that the third party statements from the Petitioner's friends and family members were vague and lacked probative details regarding his courtship, his wedding ceremony, or memorable experiences in his married life. Additionally, the Director noted that the affidavits provided few details of the Petitioner's involvement with his spouse prior to marriage or the circumstances demonstrating his involvement during his marriage. Regarding his 2020 federal tax return, the Director stressed that the return was in his name only and covered a period of time after he resided with S-M- and separated from her in February 2020. Furthermore, we note that the federal tax return is unsigned and there is no indication that the Petitioner ever filed it with the Internal Revenue Service (IRS). Finally, the

[1] Initials are used to protect the individual's privacy.

Director noted that the photographs appeared to have been taken over a few instances and thus, only provided momentary glimpses of the Petitioner's relationship with S-M-. Upon *de novo* review, we agree with the Director that the Petitioner has not established that he entered into marriage with his U.S. citizen spouse in good faith by a preponderance of the evidence. We acknowledge the Petitioner's assertion regarding the charity care application that he completed in January 2020—one month before he separated from S-M-. While the charity application references S-M- as his spouse and includes a copy of her health insurance card, it does not contain any probative details regarding his marriage or his intention of creating a life together with S-M-. We further acknowledge that the Petitioner's sister-in-law's statement contains discussion of how he and S-M- were acquainted, how they developed their relationship, details concerning their engagement party, and details of them celebrating milestones such as S-M-'s birthday, attending events including her wedding, and the deterioration of their marriage. However, his sister-in-law's statement is not sufficient, standing alone or viewed in totality with the aforementioned evidence in the record, to meet the Petitioner's burden, as it does not speak to his intentions in marrying S-M- or otherwise sufficiently establish that he married her in good faith. As a result, the Petitioner's assertions on appeal regarding the sufficiency of his evidence and the probative nature of his sister-in-law's statement and his charity care application are not sufficient to overcome the deficiencies in the record. Consequently, the Petitioner has not demonstrated that he is eligible for immigrant classification under VAWA.

ORDER: The appeal is dismissed.