



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

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

In Re: 17740402

Date: JUN. 10, 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 Amerasian, Widow(er), or Special Immigrant (VAWA petition), and the matter is before us on appeal. 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). Upon de novo review, we will dismiss the appeal.

## **I. LAW**

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in part, that he was in a qualifying relationship as the spouse of a U.S. citizen, is eligible for immigrant classification based on this qualifying relationship, entered into the marriage with the U.S. citizen spouse in good faith and was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(i)-(iii) of the Act. The petition may not be approved if the petitioner 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); see also 3 USCIS Policy Manual D.2(C), <https://www.uscis.gov/policy-manual> (explaining, in policy guidance, that the self-petitioning spouse must show that at the time of the marriage, they intended to establish a life together with the U.S. citizen spouse).

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

### A. Background and Procedural History

The Petitioner is a native and citizen of Nigeria who first entered the United States on a visitor's visa in 2013. In October 2016, the Petitioner's wife, L-D-<sup>1</sup>, a native-born U.S. citizen, filed Form I-130, Petition for Alien Relative, on Petitioner's behalf. The Petitioner simultaneously filed Form I-485, Application to Register Permanent Residence or Adjust Status. Both benefit requests were denied in July 2018. The Petitioner filed his VAWA petition in September 2018. The Director denied the VAWA petition. The Director stated that the Petitioner did not provide proof of the legal termination of his prior marriage, explaining that the document provided did not conform to the U.S. Department of State's Reciprocity Schedule for Nigeria. The Director also determined that the Petitioner did not establish he has been battered by or been the subject of extreme cruelty perpetrated by a U.S. citizen during a qualifying relationship, explaining that the evidence submitted was inconsistent regarding the Petitioner's battery claim and did not provide sufficient details of the harm perpetrated by the U.S. citizen. The Director further determined that the Petitioner had not entered into a qualifying relationship in good faith. The Director explained why the documents submitted to establish good faith marriage were not probative and lacked the required detail to establish his claim by a preponderance of the evidence. On appeal, the Petitioner submits new documents, including an updated personal statement, divorce documents, and a psychological evaluation. He asserts that his previous marriage was legally terminated and he was in a qualifying relationship as the spouse of a U.S. citizen and thereby eligible for immigrant classification under VAWA. He further asserts that he entered into a qualifying relationship with and has been subjected to battery or extreme cruelty by the U.S. citizen spouse. Based on our de novo review, the Petitioner has not established he entered into a qualifying relationship in good faith. As this issue is dispositive of his appeal, we decline to reach and hereby reserve the Petitioner's other appellate arguments. 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).<sup>2</sup>

### B. The Petitioner Has Not Established Good Faith Marriage

In support of his VAWA petition, the Petitioner included an affidavit stating, he came to the United States as a visitor in September 2013 because his former wife had conspired against him financially in Nigeria and he needed "emotional relief." He stated he met his current wife, L-D-, in January 2014, while visiting a friend in New York. He said after they met, they talked at length about their life experiences, started a relationship, and "fell in love." According to the Petitioner, they visited each other every two weeks in either Maryland or New York. He said around [ ] 2014 he received a divorce letter from his former wife and his parents told him his former wife "needed to get married

<sup>1</sup> Initials are used to protect the identities of the individuals.

<sup>2</sup> We have reviewed the new evidence on appeal and address them where relevant in the analysis below. However, with respect to the divorce documents, we need not evaluate their probative value and credibility as we do not reach the issue of whether the Petitioner legally terminated his prior marriage.

to another man.” He said L-D- proposed to him and because “his marriage had broken down irretrievably,” he agreed to her proposal. He stated they were married in [ ] 2016 and moved in together. After three months, the Petitioner said he and L-D- met with an attorney to help him obtain status and permission to work, but L-D- said he would have to pay for the application and legal fees. He then stated that, a few months later, L-D- wanted a car and needed his financial assistance. He said when he told her he could not afford to help her, she became verbally abusive and swore, telling him to ask his cousin for the money like he did for the attorney and filing fees. The Petitioner included few dates in his statement but based on his timeline, this abusive behavior would have begun in November or December of 2016. He described L-D- taking away his apartment key, and stated she treated him negatively and nagged him. He said the night before their interview with U.S. Citizenship and Immigration Services (USCIS),<sup>3</sup> he begged L-D- to accompany him but she was hostile and kicked him in the groin. He stated he had to go to the emergency room and could not attend the interview. The Petitioner submitted hospital records dated August 27, 2017, describing that the Petitioner went to the emergency room and was treated for “abdominal pain, unspecified location.” He said he tried to get friends and his cousin to talk to L-D- but she did not pick up his calls and blocked him so he could not reach her again. As a result, he said he moved back to Maryland with his cousin. He said he was scheduled for another interview with USCIS in June 2018 but withdrew his application based on advice from his attorney.

The Petitioner submitted a statement by his cousin, who he was living with in Maryland in 2013. According to his cousin, the Petitioner met “a lady he was interested in” and after they “exchanged visits” and “had some period of dating,” they eventually got married in [ ] 2016. He said he visited the couple in New York a couple of times after their marriage and they were in a happy marital relationship. He confirmed a few months after the marriage that the Petitioner’s wife filed a petition for him and that he was glad to assist his cousin with the fees for him to obtain immigration status and work because he would then be able to contribute to the welfare of his family. He then said that a few months later he learned from the Petitioner that L-D- had become verbally abusive because she wanted money from the Petitioner. The Petitioner’s cousin also stated that after he learned of L-D- “assault[ing]” the Petitioner, he told the Petitioner to move back in with him in Maryland.

In response to the Director’s request for evidence (RFE), the Petitioner submitted another statement adding that he believed L-D- married him to financially exploit him. He explained that early in their marriage he was saving money to send for his father’s surgery but L-D- used the money without telling him. He further described how L-D- locked him outside the house, slapped him whenever they had a misunderstanding and threatened to call immigration officials on him to send him back “to [his] miserable country.” He said after going to the emergency room, he thought they could still work things out and it was not his intent to move out of the apartment so he did not get all of his belongings. He said he waited a few weeks but when he asked L-D- if he could return for his things, she told him she would call immigration officials to deport him if he visited the apartment. Based on this statement, it would appear as if the Petitioner stopped living with L-D- as of August 27, 2017. The Petitioner stated that he has been unable to provide more documentation of their life together because L-D- would not allow him access to documents. Also, in response to the RFE, the Petitioner submitted a statement by his friend who stated Petitioner introduced L-D- to him in 2014. He said the couple shared some

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<sup>3</sup> According to the Form I-485’s denial letter, the Petitioner was scheduled for an interview with USCIS on August 28, 2017.

good moments after living together but after seven months he saw L-D- “hit” the Petitioner because of a “little misunderstanding.” The Petitioner’s friend also said he learned from the Petitioner that L-D- wanted money for a car and the Petitioner could not afford it. He described finding his friend in pain on the floor and L-D- threatening to send the Petitioner back to his country, which he said he had heard her threaten several times in his presence. He said the Petitioner stayed with him for a few weeks in New York before returning to Maryland. The Petitioner also submitted two psychiatric evaluations authored by a psychiatric nurse practitioner dated October 7, 2020, and October 19, 2020. The author of the psychiatric evaluations added the following details with respect to the Petitioner’s relationship with L-D-: the Petitioner met L-D- on a bus traveling to New York in 2013 and the friendship later became romantic in 2014 when the Petitioner received a divorce letter from his first wife and L-D- emotionally supported the Petitioner. The author also said the Petitioner went to stay with a friend after being discharged from the hospital but moved back home and left at the end of 2017 because he no longer felt safe in the house and was living in fear. The psychiatric evaluations raised issue with when the Petitioner and L-D- met, whether he returned home after being discharged from the hospital, and when the relationship ended.

On appeal, the Petitioner includes a third statement where he adds, in relevant part, that after meeting L-D- he spoke on the phone with her at least three times per week. He also explained that he learned from his parents that his wife in Nigeria had performed the traditional rights to free herself of the marriage because she was engaged to be married to someone else.<sup>4</sup> He added additional details about his relationship with L-D-, stating they had their first date a few weeks after he learned of his divorce, identifying the name of the restaurant they went to and stating L-D- proposed to him in March 2016 at a restaurant in [ ] New York. He said while dating they would do things most couples did like go to the movies, eat at restaurants, hold hands in public, or stay home together. He described his wedding in [ ] 2016 as being small and intimate and that they went for dinner after the ceremony. He said he was not able to work in the beginning of the marriage and not helping L-D- out with the work responsibilities weighed on him. He described how sad he was and how he did household chores like cooking and cleaning, and massaged L-D-’s feet and body to relieve her stress. He stated after he was discharged from the hospital he went to live with his friend for a week, who had packed some of his things from the apartment he shared with L-D-. The Petitioner also included a psychological evaluation, dated February 2021, authored by a licensed psychologist. The psychologist added, in relevant part, that the Petitioner traveled to the United States in September 2013 to “decompress” and secure financial assistance after his ex-wife mismanaged his funds and he was threatened by clients when he was unable to fulfill his contracts. The psychologist said the Petitioner told him he worked odd jobs in construction to pay off his debts in Nigeria. The psychologist stated that the Petitioner’s ex-wife called him to notify him that she had filed for a divorce and the Petitioner tried to convince her to give him more time.<sup>5</sup> The psychologist further explained that after marrying, L-D- and the Petitioner opened a joint bank account but every time the Petitioner put money in, L-D- would withdraw it without explanation. The psychologist also stated that in [ ] 2016 the Petitioner also learned that his father was “gravely” ill and needed surgery so the Petitioner started working odd jobs to save money to send to his siblings. When the Petitioner went to send money to his father, he learned

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<sup>4</sup> While we do not reach the issue whether the Petitioner legally terminated his prior marriage, we note that the Petitioner does not explain how his parents became aware of this information and did not provide statements by anyone with firsthand knowledge describing the traditional rights performed.

<sup>5</sup> We note that this explanation of how the Petitioner was notified of his divorce differs from his statement describing that he was sent a letter by his wife and was told by his parents on the phone that she was marrying someone else.

that L-D- had spent it and as a result his father died in July 2016. According to the psychologist, the Petitioner did not move out of the apartment with L-D- until December 2017.

While we acknowledge the Petitioner's statement and psychological assessment submitted on appeal, the documents do not add meaningful detail with respect to his courtship, wedding ceremony, shared experiences, or marital routine, and they do not explain inconsistencies in the record. Rather, the documents raise additional discrepancies with respect to the Petitioner's good faith marriage. The Petitioner, his cousin, and his friend all state that the Petitioner met L-D- in 2014, but the 2020 psychiatric evaluations state they met in 2013. With respect to the duration of the marriage, the Petitioner and his friend state he went to live with his friend after leaving the emergency room in August 2017, one statement says his friend brought his things home for him after he was discharged, and another stated he was unable to contact his spouse after that visit. On appeal, the Petitioner states he spoke to his wife after the visit to the emergency room and was told to not return home. In the 2021 psychological evaluation, however, the psychologist described the Petitioner returning home after going to the emergency room and leaving his spouse in December 2017. The Petitioner has therefore not established when he and his wife met, when and how the relationship ended, or why he was unable to obtain his belongings from their marital home. Moreover, few details are in the record with respect to the two-year courtship between the Petitioner and L-D- and the details provided were inconsistent. For example, the Petitioner described being unable to work in the United States, having financial difficulties in Nigeria and having no money, but also described affording to travel back and forth between New York and Maryland every two weeks to visit L-D- in 2014 and going to movies and restaurants with her. The Petitioner's cousin, who he lived with, does not describe these bi-weekly visits by L-D- in his statement, other than to say, "he exchanged visits with the lady." The statements describing events during the marriage also are inconsistent. In his statement provided on appeal, the Petitioner describes in detail his guilt at not being able to work after getting married in [ ] 2016, and how he rubbed his wife's feet and performed household chores to do his part until he could obtain his work permit. However, the 2021 psychological evaluation describes him working odd jobs in construction to pay off his debts in Nigeria even before meeting his wife. In the 2021 psychological evaluation, the psychologist states the Petitioner learned his father was ill in [ ] 2016 and died in July 2016. The Petitioner's appeal statement described working and saving up to send money to Nigeria for his ill father. This would have the Petitioner working in [ ] 2016 when the couple was married and raises issue with why the relationship started to deteriorate and contradicts his story of being a supportive husband at home.

In further support of his assertion that he entered the marriage with L-D- in good faith, the Petitioner submitted documents with both him and L-D-'s names. These documents included renters' insurance statements for 2017, bank statements for June 2017 and October to December 2017 with photocopies of the joint bank cards, and phone bills for July, August, and November of 2016. Also, in the record are photographs of the couple together in their home and on the day of their marriage. On appeal, the Petitioner does not provide additional explanation or probative detail regarding these submissions but asserts the Director did not give them enough weight in her analysis of good faith marriage. The Petitioner notes the number of documents he submitted and concludes that he has met his burden to establish he entered into the marriage in good faith. However, it is both the quality and quantity of the documentary evidence provided that determines the probative value. 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). For example, the June bank statement showed only two deposits in the amounts of \$30 and \$40, and a \$60 withdrawal. The statement for October to December 2017 showed no funds in the account. These statements do not evidence how the couple's expenses and savings were shared and do not provide information about the couple's relationship. Similarly, the photographs submitted are undated and, other than their wedding photographs, do not provide context for or insight to where they were, things the couple did together, their shared experiences, events they attended together, or moments that were special to them. While the Petitioner asserts that he is unable to provide additional documentation to support his marriage was in good faith because L-D- has the documents, he does not explain what documents his wife has that he would provide. He also does not explain why he was unable to independently contact the companies and banks he had accounts with to provide additional copies of statements or documents to support his claim of good faith marriage.

The evidence provided in support of the Petitioner's claim of good faith marriage raise unresolved inconsistencies surrounding when the Petitioner met his wife, when he left his wife, and why the relationship deteriorated. In addition, the record lacks sufficient evidence of the couple's courtship, probative documents evidencing their life together, and detailed statements describing their relationship. Viewed as a whole, the record does not support that the Petitioner entered into the marriage with his U.S. citizen spouse in good faith.

### III. CONCLUSION

The Petitioner has not established by a preponderance of the evidence that he entered into his marriage to his U.S. citizen spouse in good faith. Consequently, he has not demonstrated that he is eligible for immigrant classification under VAWA.

ORDER:     The appeal is dismissed.