



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

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

In Re: 20755016

Date: JUN. 13, 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 Petitioner submits additional evidence and previously submitted evidence. 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

Petitioners who are spouses of U.S. citizens may self-petition for immigrant classification if they demonstrate, among other requirements, 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).

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).

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). The burden of proof is on the petitioner to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

The record reflects that the Petitioner, a native and citizen of Benin, entered the United States with an F-1 visa in October 2016. He married R-M-,¹ a U.S. citizen, in [] 2017.² In May 2019, he filed the instant VAWA petition based on this marriage. As evidence of his good faith marriage, the Petitioner submitted a personal statement, a copy of his marriage certificate, a copy of bank statements, a copy of his lease agreement, a copy of his and R-M-'s driver's licenses, a copy of utility statements from EVA TV, Spectrum, and Nestlé, a copy of his life insurance policy application, and third party affidavits from several friends. The Director determined that this evidence was not sufficient to establish that the Petitioner entered into marriage with R-M- in good faith. The Director explained that the personal statement did not sufficiently detail his thoughts or intentions upon entering the marriage, nor did it provide sufficient detail regarding the Petitioner's and his spouse's daily routines in the marital home. Regarding the bank statements, the Director noted that R-M- was designated as a Payable on Death (POD) beneficiary and, as a result, was not an owner or co-owner of the account. Additionally, the Director noted that the lease agreement contained a signature of the Petitioner's spouse that did not match her signature on other documents and only covered a one-year period from April 2018 to April 2019. The Director acknowledged that some of the utility bills were paid from the Petitioner's bank account. However, she stressed that the Petitioner's spouse did not appear to have access to that account. The Director additionally noted that there was no indication that the Petitioner's life insurance policy application was ever submitted to the relevant insurance company. Finally, the Director emphasized that copies of the Petitioner's and R-M-'s driver's licenses, third party affidavits, and photographs did not provide insight into the intent of the Petitioner's relationship prior to marriage, subsequent marital relationship, or claimed joint residence.

The Director issued a request for evidence (RFE) seeking additional evidence that the Petitioner entered into marriage with R-M- in good faith. In response, the Petitioner submitted an updated personal statement, an additional third party statement, tax documentation, and photographs. The Director denied the VAWA petition, concluding that the additional evidence lacked probative details about the Petitioner's intent in marrying or subsequent marital relationship with R-M-. The Director considered this evidence and denied the VAWA petition, concluding that the Petitioner did not submit sufficient evidence to establish, by a preponderance of the evidence, that he married R-M- in good faith.

On appeal, the Petitioner reasserts his eligibility for the benefit sought. He argues that he and R-M- married in good faith as they signed a lease agreement together, they changed the address on their driver's licenses to reflect their claimed joint residence, and he designated R-M- as a beneficiary on his bank account. He maintains that he opened a joint bank account with R-M-, that he observed her

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

² The record indicates that the Petitioner was served a Notice to Appear (NTA) and placed into removal proceedings before an Immigration Judge in [] 2017. Although not mentioned by the Director, because the Petitioner married R-M- while in removal proceedings, he must establish that he entered into marriage with R-M- in good faith by "clear and convincing" evidence. See sections 204(g) and 245(e)(3) of the Act, 8 U.S.C. §§ 1154(g) and 1255(e)(3) (outlining the restriction on, and exception to, marriages entered into while in removal proceedings). As the Petitioner has not established that he entered into a good faith marriage with R-M- by a preponderance of the evidence, as explained below, he necessarily cannot establish the same by "clear and convincing" evidence.

sign the lease agreement, and that the third party affidavit and driver's licenses confirm that he and R-M- lived together.

We adopt and affirm the Director's decision insofar as the Director determined the Petitioner has not established that she entered into marriage with R-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 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 arguments made by the Petitioner on appeal are not sufficient to establish his good faith marriage to R-M-. The record reflects that the Director considered the Petitioner's personal statements, lease agreement, the driver's licenses, and the bank statements designating his spouse as a beneficiary on the account. Specifically, the Director explained that the Petitioner's updated personal statement remained vague and contained discrepancies regarding the date R-M- moved out of their claimed joint residence.³ The Director noted that the third party affidavit submitted in response to the RFE was duplicative except for a few additional sentences, which provided little probative detail or insight into his intent in marrying R-M-. The Director further explained that, while the photographs confirmed that the Petitioner and his spouse were in the same place at the same time, they did not provide insight into the intent of the Petitioner's relationship prior to his marriage or of his subsequent marital relationship. Lastly, the Director further explained that the Petitioner's tax documentation merited little evidentiary weight because it did not indicate that the Petitioner and R-M- filed their taxes together. Here, we find no error in the Director's determination that the evidence provided did not establish that the Petitioner married in R-M- in good faith; rather, we agree that the record lacks specific, probative details that provide insight into the Petitioner's involvement with R-M- prior to their marriage and their decision to marry. While we acknowledge the Petitioner's assertions on appeal regarding the lease agreement, closed joint bank account, the third party affidavit and his and R-M-'s driver's licenses, the additional evidence provided—bank statements from January 2019 and May 2021 to September 2021 and previously submitted copies of his lease agreement, Form I-130, Petition for Alien Relative, and driver's licenses—offers little additional insight into the Petitioner's intentions in marrying R-M- or his subsequent marital relationship with her. As such, the Petitioner has not demonstrated by a preponderance of the evidence that he married R-M- in good faith. *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).

III. CONCLUSION

³ The Petitioner indicated in his VAWA petition that he and R-M- lived together from December 2017 to February 2019. However, in a statement submitted in response to the Director's RFE, the Petitioner stated that he lived with R-M- until April 2019.

The Petitioner has not established that he married his U.S. citizen spouse in good faith. Consequently, he has not demonstrated that he is eligible for immigrant classification pursuant to VAWA.

ORDER: The appeal is dismissed.