



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

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

In Re: 17100678

Date: MAR. 14, 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 (the Director) denied the Form I-360, Petition for Abused Spouse or Child of U.S. Citizen (VAWA petition), determining the Petitioner did not establish he entered into marriage with his U.S. citizen spouse in good faith. On appeal, the Petitioner asserts his eligibility for VAWA classification.

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

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).

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 married his U.S. citizen spouse, R-B-F-,¹ in [] 2016. The Petitioner filed his VAWA petition in June 2017. The Director denied the petition concluding the Petitioner had not met his burden of establishing he entered into marriage with R-B-F- in good faith.

On appeal, the Petitioner asserts that considering the context of domestic violence, he submitted sufficient credible evidence to demonstrate his good faith marriage to R-B-F-. The Petitioner also contends that the independent evidence he was able to provide was not properly weighed by the

¹ Initials are used to protect the privacy of this individual.

Director. The record contains the Petitioner's personal statements; a prescription for the Petitioner; car insurance policies; a December life insurance policy for five thousand dollars for the Petitioner, with R-B-F- as the beneficiary; an envelope addressed to the Petitioner at a [redacted] Street address, an affidavit from the Petitioner's mother, photographs, a marriage certificate for the Petitioner and R-B-F- and divorce certificates for their previous marriages, identity documents for R-B-F- bearing the [redacted] Street address, a copy of the Petitioner's temporary permit with the [redacted] [redacted] Street address, October 2017 insurance documentation for the Petitioner bearing a [redacted] [redacted] address, a September 2017 letter for R-B-F- bearing the [redacted] address, employment and financial documentation for R-B-F-, and psychological documentation for the Petitioner.

In denying the petition, the Director determined the marriage certificate and photographs submitted of the Petitioner, R-B-F-, her children, and other individuals establish a marriage took place and the Petitioner spent time with these individuals at one-time events, but did not demonstrate the marriage was entered in good faith. The Director also found the Petitioner's statements and his mother's affidavit to be vague and lacking in probative detail. The Director concluded that life and insurance policies bearing both the names of the Petitioner and R-B-F- and a common address may assist in determining joint residence but do not demonstrate good faith entry into a marriage as there is no indication the policy was maintained.

We adopt and affirm the Director's decision insofar as the Director determined the Petitioner has not established that he entered into marriage with R-B-F- in good faith. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *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 IJ's [Immigration Judge'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 not sufficient, standing alone or viewed in totality with the underlying record, to meet his burden of establishing he married R-B-F- in good faith. The Petitioner asserts the findings in his psychological documents should have been given greater weight because the evaluator made her own independent observations. The psychological documents include: 1) a diagnosis for the Petitioner of adjustment disorder with depressed mood and personal history of adult abuse, and 2) notes from the Petitioner's self-reporting sessions. However, as these documents contain the Petitioner's statements regarding abuse but do not include information concerning his courtship and other aspects of his relationship with R-B-F-, they do not sufficiently demonstrate the Petitioner's good faith marriage to R-B-F-. The Petitioner also asserts the sworn declaration of his mother should have been given more weight because of her contemporaneous knowledge of events from speaking with the Petitioner. But the Petitioner's mother's affidavit also does not contain details concerning his courtship or relationship apart from abuse, indicating only her awareness that the Petitioner married R-B-F-. In addition, the Petitioner's mother's affidavit contains a discrepancy, as she identifies the date of the Petitioner's marriage to R-B-F- as [redacted] 2016 rather than [redacted] 2016. We concur with the Director that the Petitioner's statements do not contain detail and meaningful shared experiences, values, or interests during his courtship that led to his decision to marry R-B-F-. Rather, the Petitioner's personal statements indicate he was leasing a room from R-B-F- and when she suggested they should get married, he accepted for companionship reasons. The Petitioner generally asserts they lived together as husband and wife, ate dinner together when work allowed, and grocery shopped and attended outings on the weekends.

Counsel for the Petitioner asserts the Director erroneously assigned insurance policies bearing the Petitioner's and R-B-F-'s names less weight as there was no indication that these policies were maintained. Counsel contends these accounts were actually maintained. We initially note assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988) (citing *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980)). Counsel further asserts that proof of such maintenance is not required, noting the Petitioner was only able to obtain a few copies of documents due to abuse. However, the record contains two purportedly overlapping car insurance policies for the Petitioner and R-B-F- for a single vehicle, with no explanation. The record contains [redacted] insurance coverage documentation for a 2001 Dodge [redacted] from November 2016 to May 2017, and [redacted] insurance coverage documentation for the same 2001 Dodge [redacted] from September 2016 to March 2017. Due to this discrepancy, it is not evident that joint car insurance was maintained for this vehicle for the length of time claimed on the face of these documents and that they demonstrate actual commingling of the Petitioner and R-B-F-'s resources. In addition, the record contains joint [redacted] insurance coverage documentation for another vehicle starting February 2017, when the Petitioner claimed he and R-B-F- were no longer residing together. In his VAWA petition, the Petitioner indicated he and R-B-F- resided together from April 2016 to December 2016 and submits documents reflecting a [redacted] address for the Petitioner and R-B-F-. However, the record also contains documents for the Petitioner and R-B-F- reflecting a different shared [redacted] address in 2017, including: a May 2017 prescription for the Petitioner, an October 2017 insurance premium letter for the Petitioner, and a September 2017 [redacted] continuation coverage letter for R-B-F-. Accordingly, the record also contains discrepancies related to the Petitioner's claimed residence with R-B-F- and his contention that she told him to leave and never return.²

The Petitioner maintains that he merits flexibility in the evaluation of his evidence as R-B-F- was in control of their marriage and paperwork, including joint bank statements. We note the psychological documentation for the Petitioner indicates that he opened up a bank account and R-B-F- spent money from it, and the record does not contain evidence related to this account. The Petitioner contends on appeal that his submitted evidence is sufficient to demonstrate his eligibility for VAWA classification. We acknowledge that a petitioner can face difficulties in obtaining documentary evidence in a domestic violence relationship. But petitioners must demonstrate their eligibility by a preponderance of the evidence standard and, as indicated above, while any credible evidence will be considered in assessing whether a petitioner has met their burden to establish eligibility, USCIS has sole discretion to determine the credibility of and the weight given to such evidence. We have reviewed the submitted evidence, detailed above, and it is not sufficient to overcome the lack of probative details and discrepancies in the record. Overall, the Petitioner has not established he entered into marriage with his U.S. citizen spouse in good faith.

² We note that this discrepancy may impact the Petitioner's eligibility for VAWA classification on an additional ground. Since the identified basis for denial is dispositive of this matter, we decline to consider whether the Petitioner has demonstrated his eligibility for VAWA classification on additional grounds. 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).

III. CONCLUSION

The Petitioner has not overcome the basis of the Director's denial on appeal and has not demonstrated his eligibility for VAWA classification.

ORDER: The appeal is dismissed.