



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

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

In Re: 20010886

Date: MAR. 28, 2022

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), concluding that the Petitioner did not establish that he resided jointly with his former U.S. citizen spouse and entered into marriage with her in good faith. The matter is now before us on appeal. Upon *de novo* review, we will dismiss the appeal.

## I. LAW

A VAWA petitioner who is the spouse or ex-spouse of a United States citizen may self-petition for immigrant classification if the petitioner demonstrates that they entered into the marriage with a United States citizen spouse in good faith and that during the marriage, the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii)(I) of the Act; 8 C.F.R. § 204.2(c)(1)(i). In addition, petitioners must show that they are eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) of the Act, resided with the abusive spouse, and are a person of good moral character. Section 204(a)(1)(A)(iii)(II) of the Act; 8 C.F.R. § 204.2(c)(1)(i).

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 a petitioner may submit any credible evidence for us to consider, we determine, in our sole discretion, the credibility of and the weight to give that evidence. Section 204(a)(1)(J) of the Act; 8 C.F.R. §§ 103.2(b)(2)(iii), 204.2(c)(2)(i). The 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).

## II. ANALYSIS

The Applicant, a native and citizen of Brazil, married his U.S. citizen spouse, N-H-V-,<sup>1</sup> in [REDACTED] 2017. He filed his VAWA petition in May 2019 and the couple divorced in [REDACTED] 2019. The Petitioner

---

<sup>1</sup> We use initials to protect identities.

did not submit supporting evidence with his VAWA petition, but later provided it in response to the Director's request for evidence (RFE). The Director denied the VAWA petition based on a determination that the Petitioner had not submitted sufficient, credible evidence to establish that he resided jointly with N-H-V- during the marriage and entered into the marriage in good faith.

In his initial personal statement, the Petitioner stated that he looked out the window one night during a snowstorm and saw N-H-V- parked in front of his driveway with a flat tire. He went out and introduced himself and helped her change the tire. About two years later, he saw her in the gym and she recognized him. They talked and exchanged phone numbers, and began to go out for dinner at restaurants or go snowboarding together. The Petitioner owned a motorcycle, and N-H-V- bought a motorcycle so that she could ride with him. After that, they saw each other nearly every day, and he eventually decided that he wanted to marry her. Therefore, he took her for a motorcycle ride in March 2017 and proposed near a reservoir, and N-H-V- said yes. He expressed that he was very excited to be marrying "the love of [his] life." They married in [REDACTED] 2017 with "something simple, with just close friends and family," for financial reasons and because they could not accommodate people who would have come from abroad to attend. The Petitioner noted that he was sad that his parents were unable to travel to the wedding, but he was still "super happy," and his best friend helped organize the event.

He noted that he and N-H-V- planned to take a honeymoon later, when they "got situated a little better," and dreamed of moving to California and buying a house. After they got married, they decided to live together in the Petitioner's current apartment to save money. Because it was intended to be a temporary location, they "decided not to worry and go through the trouble of changing and adding her name to the billings and address." He stated that he did the grocery shopping and other household chores while she handled monthly expenses. The Petitioner indicated that "[i]t wasn't long until things suddenly started taking a turn, and [their] relationship started changing for the worse." He noted that N-H-V- began to fight and yell at him, and when he tried to talk to her about the issues in their relationship, she would push or hit him. According to the Petitioner, N-H-V- started taking Brazilian Ju Jitsu classes in the spring of 2018, after which she became more physically and verbally abusive. He recounted arguments and physical altercations with N-H-V- and recalled when she became angry with him for asking a friend for advice about the relationship. He stated that he began to go to counseling but did not want N-H-V- to find out because he did not know how she would react. The problems with N-H-V- continued, and he eventually "figured out that no matter what [he] did, it was never enough to satisfy her." The Petitioner stated that after he had attended counseling for two months, N-H-V- told him that she wanted a divorce. He felt very sad about the divorce and begged her not to go through with it because he felt they could still fix their marriage. He continued to attend counseling "[f]or the next few months" but the divorce was very difficult for him and he continues to struggle to move past his relationship with N-H-V-.

#### A. Joint Residence

Among other requirements, a petitioner must establish that they have resided with their abusive spouse. Section 204(a)(1)(A)(iii)(II)(dd) of the Act; 8 C.F.R. § 204.2(c)(1)(i)(D). The Act defines a residence as a person's general abode, which means their "principal, actual dwelling place in fact, without regard to intent." Section 101(a)(33) of the Act, 8 U.S.C. § 1101(a)(33). Although there is no requirement that a VAWA petitioner reside with their abuser for any particular length of time, a

petitioner must show that they in fact resided together. Section 204(a)(1)(A)(iii)(II)(dd) of the Act; 8 C.F.R. § 204.2(c)(1)(v). Evidence of joint residence may include employment, school, or medical records; documents relating to housing, such as deeds, mortgages, rental records, or utility receipts; birth certificates of children; insurance policies; or any other credible evidence. 8 C.F.R. § 204.2(c)(2)(iii).

The Director indicated that unresolved inconsistencies and lack of detail in the Petitioner's evidence cast doubt on the credibility of his claims regarding his joint residence with N-H-V-. The Director noted that the Petitioner's personal statement lacked probative detail regarding his living situation with N-H-V-, and that the utility bills he submitted were in his name only. Further, the Director stated that although the Petitioner submitted a 2017 lease agreement for a home he claimed to have shared with N-H-V-, he had already been residing at that location since 2014. The Director also indicated that other evidence in the record shows multiple prior leases for the Petitioner at the same address, but with a different joint tenant and landlord, and that the beginning and ending dates on the prior leases conflicted with the dates on the lease the Petitioner submitted in support of his VAWA petition. The Director acknowledged the other evidence the Petitioner had provided, including a paycheck addressed only to the Petitioner at the claimed joint residence and a letter addressed only to N-H-V-, but concluded that they were insufficient to show that the Petitioner and N-H-V- had resided there together. Further, the Director addressed a mental health evaluation and third-party affidavits the Petitioner submitted, noting that they did not provide probative evidence about the Petitioner's claimed shared residence.

On appeal, the Petitioner provides a personal statement in which he acknowledges that he has lived in his current residence since 2014, and asserts that N-H-V- moved in with him in January 2017 after they had dated for about seven months. He states that the house he rents "was sold and the new landlord started a new lease with new commence date," so the leases "have differed [*sic*] names and dates." He states that "since the house was taken by a new ownership and a new lease was going to be done her name was included on the lease." He also claims that the landlord "is already an elderly man and maybe he did not make a proper lease back then . . . ." The Petitioner provides a copy of a mortgage security instrument document, dated March 14, 2017, relating to his current address, which is the same address at which he claims to have lived with N-H-V-. The document lists the name of the borrower as J-A-D-, which matches the name of the landlord on the lease the Petitioner previously submitted. However, the lease was dated January 1, 2017, and the mortgage security instrument is dated more than two months later, in March 2017. This document does not support the Petitioner's claim that he and N-H-V- obtained a new lease in January 2017 due to sale of the property to a new landlord at that time.

The Petitioner also indicates in his appeal statement that when N-H-V- moved in with him in January 2017, he wanted to do whatever he could to make her happy, so he let her change the apartment in any way she wanted. He explains that he took her furniture shopping, bought a new bed, painted the kitchen cabinets, and replaced the curtains so the sunlight would not bother her in the mornings. He describes the décor and furnishings of the apartment and states that because he and N-H-V- planned to move to California eventually, he "did not bother" to add her name to the utility bills. The Petitioner states that he and N-H-V- both left the house every morning around 6:40 a.m. to go to work, and that he returned around 3:30 p.m. and she returned between 5:30 and 6:00 p.m. He indicates that because he got home first, he would "fix the house, wash [their] clothes, and sometimes arrange a place for

[them] to have dinner.” He reports that on their days off, he and N-H-V- would go to the gym together, ride motorcycles, and see new places. He states that after a couple of months of living together he decided he wanted to marry her, and their routine stayed the same after their marriage. As supporting evidence on appeal, he submits copies of three previously submitted statements from friends, who did not provide any details about the Petitioner’s claimed joint residence with N-H-V-.

The Petitioner’s arguments on appeal are not sufficient, standing alone or viewed in totality with the underlying record, to establish by a preponderance of the evidence that he resided jointly with N-H-V-. Although he has now described the furnishings, décor, and basic daily routine in the residence that he claims to have shared with N-H-V-, his explanation regarding the date on their lease creates a new unresolved discrepancy. The Petitioner has resided at his current address since 2014, and now claims that a new lease was created for him and N-H-V- when she moved in in January 2017 because the property had been sold to a new owner. However, the mortgage security instrument he submits in support of his claim is dated in March 2017, and therefore conflicts with his claim that new leases were created in January due to the property sale. Additionally, although the Petitioner claims that he and N-H-V- decided not to bother with adding her name to the utility bills, he stated in his initial personal statement that because she was more organized, “[t]his instantly resulted in her taking care of billing, calling and taking care of [their] monthly expenses and [their] commitments.”

Furthermore, the Petitioner claimed in his initial personal statement that he and N-H-V- “moved in together only after [they] got married” in [redacted] 2017, while he states on appeal that he realized he wanted to marry her after living together for a few months, beginning in January 2017. On appeal, he claims that this discrepancy is due to a translation error by the person he hired to prepare his VAWA petition, and that he could not read or write in English to ensure that his story was written correctly. However, while we recognize that the Petitioner corrected the date on his VAWA petition to indicate that he and N-H-V- began living together in January 2017 instead of [redacted] 2017, his descriptions of the timeline of his relationship with N-H-V- and his decision to marry her are based on when they moved in together, and his statement on appeal conflicts significantly with his initial personal statement submitted before the Director. In his initial statement, he stated that in the time leading up to his proposal in March 2017, he and N-H-V- would “meet up” at a restaurant and “saw each other nearly every day . . . whether it was for dinner, summer activities or winter,” which is inconsistent with his assertion on appeal that he and N-H-V- were living together and “started [their] life together as a couple” by January 2017. In light of the inconsistencies in the record and the absence of additional credible, probative supporting evidence, the Petitioner’s personal statement on appeal is not sufficient to establish by a preponderance of the evidence that the Petitioner and N-H-V- resided together, as section 204(a)(1)(A)(iii)(II)(dd) of the Act requires.

## B. Good Faith Marriage

An SIJ petitioner must demonstrate that they entered into the marriage with their U.S. citizen spouse in good faith. Section 204(a)(1)(A)(iii)(I)(aa) of the Act. Good faith requires that a petitioner has not “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). Evidence that the marriage was entered into in good faith may include, but is not limited to: shared insurance policies, property leases, income tax forms, and bank accounts; testimony or other evidence regarding the couple’s courtship, wedding ceremony, shared residence, and experiences together; birth certificates of children born to the relationship; police,

medical, or court documents providing information about the relationship; or affidavits of persons with personal knowledge of the relationship. 8 C.F.R. § 204.2(c)(2)(vii).

The Director determined that the Petitioner had not met this requirement, noting that his personal statement did not contain sufficient probative details about his courtship, intention in marrying, or interests and activities he and N-H-V- shared. The Director also determined that the letters from the Petitioner's friends and a mental health evaluation he submitted did not contain sufficient probative evidence to support his claim of good faith marriage. In his statement on appeal, the Petitioner states that he "was completely in love with" N-H-V- when she moved in with him, and that after a couple of months of living together he "realized she was the person [he] wanted to spend the rest[] of [his] life next to and that [they] were perfect for each other," so he decided to propose. He indicates that in March 2017, he invited her on a motorcycle ride to a reservoir and "when [they] were admiring the view, [he] got in one knee and asked her to marry [him] and she said yes . . . ." He states that they married in [redacted] 2017 and then "lived a happy life until February of 2018" when N-H-V- "started to be hostile with [him], rude, she would fight and yell . . . ." He asserts that he began to see a psychologist without N-H-V- knowing. The Petitioner reports that he "lost the woman [he] loved the most in [his] life" and when N-H-V- asked him for a divorce, "she shattered [his] heart because [he] believed she could once again be the woman [he] met and fell in love with."

The Petitioner also addresses a discrepancy the Director noted between the mental health evaluation the Petitioner previously submitted and his personal statement. The evaluation, issued by a counselor at [redacted] in [redacted] Massachusetts, indicated that the Petitioner was evaluated in June 2020 and that when "asked about his psychiatric history, [he] report[ed] that he ha[d] never seen a mental health provider prior to this evaluation." By contrast, the Petitioner stated in his initial personal statement that he sought psychological care from [redacted] after N-H-V-'s abusive behavior escalated in the spring of 2018, had attended counseling there for two months by the time N-H-V- told him that she wanted a divorce in November 2018, and continued to receive counseling "[f]or the next few months" after she requested a divorce. He indicated that he and N-H-V- were divorced in [redacted] 2019, prior to the date of the mental health evaluation. On appeal, the Petitioner states that he did see a psychologist at [redacted] for "a couple of months without [N-H-V-] knowing it," and that when he went for his psychological assessment in June 2020, his prior psychologist was no longer working there and he was assigned to someone else. He contends that when he told the new psychologist that he "had been seen there before . . . he inquired a[n] assessment from the other psychologist for him to read and follow the treatment she was doing in the past . . ." but he had not kept copies of any documents for fear that N-H-V- would find out that he was seeking counseling. Therefore, the Petitioner claims that the new psychologist told him that "it was not taken in consideration for this assessment." The Petitioner's explanation regarding this issue is not reasonable. He provides no evidence that a licensed mental health provider would falsely state in an evaluation that the Petitioner had "report[ed] that he ha[d] never seen a mental health provider prior to this evaluation" when the Petitioner had informed him that he had previously received several months of mental health services at the same practice.

As mentioned above, on appeal the Petitioner resubmits previously submitted statements from three friends. The first, J-T-, states that the Petitioner told him about meeting N-H-V- and seemed very excited. J-T- recalled that the Petitioner and N-H-V- used to go to restaurants and on motorcycle rides together. When J-T- met N-H-V- during a dinner with J-T-'s mother, he felt that the Petitioner was

“head over heels for her” and “[s]he was an exact fit for him.” He reported that the Petitioner told him he was planning to propose and later showed him the ring he bought for her, and when they got engaged he “texted [him] pictures and videos of the moment.” According to J-T-, the couple announced their engagement to friends during dinner at a restaurant and later married in “a small reception at the apartment club [J-T-] lived in” with only a few close friends in attendance. J-T- thought the Petitioner and N-H-V- were “great together,” but later he did not see “that love and affection they use to have . . . .” Another friend, V-R-Z-, similarly stated that the Petitioner told him about having met N-H-V- and that “[t]hey would do everything together.” V-R-Z- observed that the Petitioner was very happy with N-H-V- and that when he went for a visit to meet her, he felt they were “a great match.” According to V-R-Z-, the Petitioner expressed “pure joy” when N-H-V- accepted his marriage proposal and the couple then married in a private event where they had “a great time[,] [f]ull of smiles, happiness, dancing and love.” A third friend, R-M-, recalled that the Petitioner was very happy when he met N-H-V-. R-M- stated that when he and his family met N-H-V-, they thought she was friendly and nice and were very happy for the Petitioner. He noted that the Petitioner told him a few months later that he wanted to marry N-H-V-, but that “soon after they got married,” he sensed a change in their friendship and eventually realized it was due to problems in the marriage.

The Petitioner’s arguments on appeal, when considered in combination with his arguments and evidence submitted below, are not sufficient to show that he married N-H-V- in good faith. The Petitioner’s personal statements do not contain probative, detailed, credible descriptions of his relationship with N-H-V-. Although he has described how he met N-H-V- and why he decided to propose to her, the information he has provided about their wedding ceremony and life as a married couple lacks detail and focuses mainly on the claimed abuse. Similarly, the Petitioner’s friends noted that the Petitioner was very happy to have met and become engaged to N-H-V-, but do not contain probative detail about the wedding or their relationship as spouses. The psychological evaluation the Petitioner submitted also lacks information about the courtship and marriage, stating only that the Petitioner and N-H-V- met at the gym and “became romantically involved,” and then “continued developing their relationship and married” in [REDACTED] 2017. The evaluation further notes that the Petitioner reported the marriage “was ‘relatively good’ until her grandmother died in the beginning of 2018.” Furthermore, as discussed above, the record contains inconsistencies about the timeline of the Petitioner’s relationship with N-H-V-, including when they moved in together and what caused the Petitioner to decide to propose marriage. Although the Petitioner also submitted three photos of himself and N-H-V- together with friends, the photos are not enough to demonstrate the Petitioner’s intentions in marrying N-H-V-. The evidence when considered in the aggregate is insufficient to meet the Petitioner’s burden of showing by a preponderance of the evidence that he married his U.S. citizen spouse in good faith, as section 204(a)(1)(A)(iii)(I)(aa) of the Act requires.

### III. CONCLUSION

The Petitioner has not met his burden of establishing by a preponderance of the evidence that he lived jointly with his former U.S. citizen spouse and entered into the marriage in good faith. Accordingly, he has not established eligibility for immigrant classification under VAWA.

**ORDER:** The appeal is dismissed.