



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

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

In Re: 20487174

Date: MAY 03, 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 in the Immigration and Nationality Act (the Act) at section 204(a)(1)(A)(iii), 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. Upon *de novo* review, we will dismiss the appeal.

I. LAW

A petitioner who is the 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). While U.S. Citizenship and Immigration Services (USCIS) 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 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).

II. ANALYSIS

The Petitioner is a native and citizen of Serbia who entered the United States in December 2015 with a B-1 nonimmigrant visa. In [redacted] 2016 he married his U.S. citizen spouse, T-P-R-,¹ with whom he indicates he resided from February 2016 to September 2018, and in January 2020 he filed a VAWA petition. With the VAWA petition he submitted personal affidavits, statements from friends, a

¹ We use initials to protect individual identities.

psychological assessment, financial records, civil documents, and photographs. The Director denied the petition, finding that the Petitioner did not establish that he resided with T-P-R- and that he entered the marriage in good faith. On appeal, the Petitioner submits a brief.

In his affidavits the Petitioner stated that he met T-P-R- in a bar in February 2016 and was immediately attracted to her, and they spent the night talking and laughing, spoke daily on the phone afterward, and dated about five months before marrying. He stated that T-P-R- moved in with him for a couple of months before they moved to her apartment, where he lived for two years, and that the couple went to restaurants, movies, and bars. The Petitioner described T-P-R-'s parents, brother, and children, claimed that he treated the youngest daughter as his own, and recalled that T-P-R-'s mother did not initially accept him but the two became close. The Petitioner contended that T-P-R- had previously worked low-paying jobs and been hanging around suspicious people but he influenced her life, she enrolled in college, and they emotionally supported each other, with plans for her to become a registered nurse and him to start a trucking company. He claimed they planned to move to a better neighborhood, and everything was promising, but lack of money was a problem, so he trained as a truck driver. The Petitioner maintained that he was then on the road a lot, and although they were financially better off, about six months after they began living together T-P-R- stopped working, went back to her drinking habits with friends, and had an affair with a gang member. The Petitioner described T-P-R-'s behavior, which included drinking, demanding money, threatening to call immigration authorities, becoming jealous, and making him feel bad until he moved out in June 2018.

In their statements, friends of the Petitioner described meeting T-P-R- and said that the Petitioner seemed happy, but they later learned of her drinking and infidelity. One couple stated that they rented a room where the Petitioner and T-P-R- briefly stayed and that they attended the wedding and a restaurant reception. A letter from T-P-R-'s mother stated that the couple moved into her building in May 2016 when T-P-R- was a student and the Petitioner was a truck driver, but they moved away in spring 2018. A letter from one individual stated that the Petitioner and T-P-R- rented an apartment in the building from August 2016 to April 2018, and a letter from the building's landlord stated that the couple rented there from May 2016 to April 2018.

In denying the petition the Director found evidence insufficient to establish that the Petitioner shared residence with T-P-R-. The Director concluded that affidavits from the Petitioner and others did not offer probative information or details of the residence and conflicted with other evidence in the record, including rental leases, a tax return, and the Form I-360, about where the couple resided and when. The Director determined that some billing statements contained only one name and that bank statements did not appear used by both the Petitioner and T-P-R- to commingle finances and that they showed low balances with few transactions so did not indicate use for household expenses. The Director referred to a February 2019 site visit by USCIS officers at the address listed on Form I-360 during which he claimed he had separated from T-P-R- more than a year earlier and withdrew his Form I-485, Application to Adjust Status.

The Director further determined that the Petitioner's affidavits did not provide sufficient detail of courtship, shared experiences, marriage ceremony, and interactions to support that they entered marriage in good faith. The Director concluded that the affidavits lacked insight into the dynamics of the marriage other than as it related to abuse and did not describe the couple's mutual interests, dating, life together, and moral support, or show that they took part in activities as a couple. The Director

determined that third party affidavits asserting knowledge of the marriage did not provide detail to show the couple shared emotional and domestic bonds normally associated with a marriage.

The Director stated that the record indicated that at an April 2018 immigration interview two years into their relationship, the Petitioner did not know the grade or school name for T-P-R-'s daughter and found that his claim that T-P-R- used going to school as an excuse not to work contradicted his claim of emotionally supporting each other's goals. The Director further determined that some billing statements contained only one name so were of little evidentiary value, that bank statements showed minimal balances and little evidence of financial transactions normally associated with a *bona fide* marriage, and that photographs showed the couple in each other's presence but were not sufficient to show the intent of creating life together. The Director also referred to inconsistencies in affidavits and documents about the location and dates for the couple's shared residence.

On appeal, the Petitioner argues, through counsel, that he submitted ample evidence of good faith marriage. He cites legal decisions that he must show a *bona fide* marriage and that he intended to establish a life together at the time they married. He contends that his affidavit is enough as he gave examples of their life together, described his spouse's alcoholism and abuse, and explained demise of the relationship. He also refers to the letter from T-P-R-'s mother. The Petitioner points out that the Form I-130 filed by his spouse² was initially approved, claims that he already explained the addresses where he was living, and asserts that the Director places undue emphasis on the address listed on the Form I-360 and information from a February 2019 site visit when they had already separated.

Upon review of the record, we agree with the Director that the Petitioner has not established that he entered into marriage with T-P-R- in good faith. The arguments on appeal are not sufficient, standing alone or viewed in totality with the underlying record, to overcome the Director's decision. The Petitioner argues that he submitted ample evidence, but his affidavits focus largely on T-P-R-'s behavior after marriage with little insight into the development of their relationship leading to his decision to marry, description of a wedding ceremony, or details of their daily life and routine leading up to or after their marriage. On appeal, the Petitioner references the letter from T-P-R-'s mother, but it is brief and only indicates the couple lived in her building without providing any description of the couple's interactions or offering any other observations. Other statements submitted in support of the Petitioner mention meeting T-P-R- and learning of her later behavior, but they do not offer observations or other details of the couple's relationship. The Petitioner suggests that the Director focused wrongly on the address listed on the Form I-360 but does not otherwise address deficiencies identified by the Director related to documentary evidence. The record does not establish that the Petitioner entered into marriage in good faith.

As noted, the Director also determined that the Petitioner did not demonstrate that he and T-P-R- resided together, as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act. As the Petitioner did not establish that he entered into marriage with T-P-R- in good faith, we decline to reach and hereby reserve the Petitioner's appellate arguments on this issue. *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

² The record shows a Form I-130, Petition for Alien Relative filed on the Petitioner's behalf was approved in December 2016 without interview, but was subsequently withdrawn by T-P-R- in February 2019 following interviews and a site visit by U.S. Citizenship and Immigration Services officers in conjunction with the Petitioner's application to adjust status.

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).

In conclusion, because the Petitioner has not established that he entered the marriage in good faith, he has not demonstrated that he is eligible for VAWA classification.

ORDER: The appeal is dismissed.