



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

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

In Re: 20450096

Date: MAY 9, 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), concluding that the Petitioner did not establish that he had entered into the marriage in good faith, as required. The matter is now before us on appeal. Upon *de novo* review, we will dismiss the appeal.

I. LAW

A petitioner who is the spouse or former spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in part, that they entered into the marriage with the U.S. citizen spouse in good faith and the petitioner was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii) 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 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). Petitioners are "encouraged to submit primary evidence whenever possible," but may submit any relevant, credible evidence in order to establish eligibility. 8 C.F.R. § 204.2(c)(2)(i). USCIS determines, 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 filed a VAWA petition in April of 2019. In part 10 of the petition, when asked when he and his spouse, M-B-,¹ got married, he responded “Unknown.” When asked to provide the last street name and number at which they lived together, he again responded “Unknown.” After the Petitioner responded to two requests for evidence (RFE), the Director denied the VAWA petition, concluding the Petitioner did not establish that he had entered into marriage with M-B- in good faith. The Director found that the Petitioner’s affidavit lacked probative details and did not provide insight into the dynamics of their marriage. The Director further found that the Petitioner’s affidavit did not describe any mutual interests, the couple’s courtship, or the circumstances and events demonstrating their involvement prior to or during their marriage. In addition, the Director found that the third-party affidavits submitted were vague and did not provide sufficient details of the couple’s relationship. The Director also found that the photographs submitted were insufficient to make a positive determination of a good faith marriage, and noted that the incident reports, order of protection documents, and medical records that were submitted did not demonstrate the Petitioner’s intent upon entering the marriage. With respect to a food service account from M-B-’s child’s school which listed the Petitioner’s and M-B-’s names, the Director found that this document did not show the Petitioner and M-B- shared financial responsibility for the account, and noted that a bank statement and checks in the record were solely in the Petitioner’s name. The Director denied the VAWA petition accordingly.

On appeal, the Petitioner argues that he submitted numerous pieces of evidence that the Director blatantly disregarded. The Petitioner asserts, in part, that a police report shows the couple’s joint address and characterized the incident “as domestic violence meaning that [the Petitioner and M-B-] had an intimate partner relationship.” He states that a subsequent police report described the Petitioner as M-B-’s husband and that an order of protection listed the couple’s joint address. The Petitioner further states that although the bank statement was in his name only, it showed the couple’s joint address, and asserts that the food service account balance reminder was a joint bill, indicated they were both the parents/guardians of M-B-’s child. He quotes the third-party affidavits, including one from his pastor, and contends that they do, in fact, contain details about his marriage, and maintains that the photographs show they were a close, affectionate couple. He submits new evidence on appeal, including a rental agreement, two joint electric bills, and copies of text messages and photos.

After a careful review of the entire record, including the new evidence submitted on appeal, we find that the Petitioner has not met his burden of establishing he married M-B- in good faith. The record shows the Petitioner and M-B- got married in [REDACTED] 2014. The police reports, order of protection, as well as the two utility bills submitted on appeal are dated after the couple married and, as such, do not provide evidence of the Petitioner’s intent in entering into the marriage. The text messages submitted on appeal appear to be from several different phones, making it unclear who was communicating by text, and, in any event, are written in Spanish. The Petitioner has not submitted a translation into English as required under 8 C.F.R. § 103.2(b)(3) and, thus, we do not consider them. Although the Petitioner now submits a joint rental agreement dated in November of 2013, we do not find that the Petitioner has overcome the deficiencies noted by the Director. The Petitioner has not submitted a new affidavit on appeal or any other statements from third parties to provide probative, insightful details regarding his marital intentions.

¹ We use initials to protect the identities of the individuals in this case.

The new evidence submitted on appeal is not sufficient, even when viewed in totality with the underlying record, to establish that the Petitioner married his spouse in good faith. The Petitioner has not met his burden of showing he entered into marriage with his U.S. citizen spouse in good faith, as section 204(a)(1)(A)(iii)(I)(aa) of the Act requires.

ORDER: The appeal is dismissed.