



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

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

In Re: 19238934

Date: SEP. 07, 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. Upon *de novo* review, we will dismiss the appeal.

I. LAW

An individual who is the spouse of a U.S. citizen may self-petition for immigrant classification under VAWA if the petitioner demonstrates, among other requirements, that they were battered or subjected to extreme cruelty perpetrated by the spouse and have resided with the spouse. Section 204(a)(1)(A)(iii) of the Act. Section 101(a)(33) of the Act provides that, as used in the Act, “[t]he term ‘residence’ means the place of general abode . . . [a person’s] principal, actual dwelling place in fact, without regard to intent.” 8 U.S.C. § 1101(a)(33).

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 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). 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).

II. ANALYSIS

The Petitioner, a native and citizen of Ghana, entered the United States in 2003 on a visitor visa. He filed the instant VAWA petition in December 2018 based on a claim of battery and extreme cruelty by his U.S. citizen spouse, E-.¹ The Director denied the petition, determining, in pertinent part, that the Petitioner had not demonstrated that he and E- resided together, as required.

¹ We use initials to protect the privacy of individuals.

A. Joint Residence with U.S. Citizen Spouse Not Established

On appeal, the Petitioner has not overcome the Director's ground for denial of his petition, as he did not establish that he resided with E- as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act and the implementing regulation at 8 C.F.R. § 204.2(c)(1)(i)(C). 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).

On the VAWA petition, the Petitioner indicated that he resided with E- from July 2015 to November 2017 at an address on East [] Avenue in [] Colorado. However, apart from discussing the claimed abuse and his general assertion that he and E- resided together at this residence, the Petitioner did not provide additional probative details supporting his claim of joint residence. The record also discloses inconsistencies within the Petitioner's account of his joint residence with E-. The Petitioner's initial self-affidavit (VAWA self-affidavit) indicated that he married E- in [] 2015 and moved in with her a few weeks later, in contrast to the dates he indicated that they began residing together on the VAWA petition. To address the inconsistency after the Director issued a request for evidence (RFE), the Petitioner asserted in a supplemental self-affidavit (RFE self-affidavit) that the reason for the discrepant dates was that a friend of E-'s helped the Petitioner fill out the paperwork for his I-130, Petition for Alien Relative, and that his attorney for the I-360 subsequently used the same dates. However, the dates during which he resided with E- are material to his claim of joint residence. Because the Petitioner signed his Form I-360, there is a strong presumption that he knew and assented to the contents of his petition. *Matter of Valdez*, 27 I&N Dec. 496, 499 (BIA 2018). While the Petitioner may rebut this presumption by demonstrating "fraud, deceit, or other wrongful acts" by another party, he has not done so here. *Id.*

The record also reflects that during the period of the Petitioner's claimed joint residence with E-, he was frequently residing at the home of his friend P-A- at an address on [] Way in [] Colorado. As an initial matter, the Petitioner's statements in this regard call into question whether the Petitioner's "residence" as defined in section 101(a)(33) of the Act was the address where he claimed to live with E- or whether it was P-A-'s address. Moreover, the evidence submitted by the Petitioner and other evidence in the record lacked consistency and detail regarding this arrangement, which casts further doubt on whether he resided with E-. The Petitioner's VAWA self-affidavit indicated that when E- was abusive, which began sometime after E- filed the I-130 on his behalf in August 2016, he would spend time in other parts of their home or intentionally come home late after she fell asleep, and did not mention going or staying overnight elsewhere. When the Petitioner was presented with information from his administrative record indicating that he had been recognized as living at and using another address beginning in February 2017, he asserted in his RFE self-affidavit that when his marriage began to deteriorate, he would stay with P-A- for a few days at a time, although did not specify a date for when he began doing so. A letter in the record from P-A- affirmed that the Petitioner sporadically resided at his home, but indicated additional discrepancies and appeared to lack firsthand knowledge of the Petitioner's living situation, despite the Petitioner's claim that he stayed at P-A-'s home for days at a time. Specifically, although P-A- stated that the Petitioner was experiencing challenges in his marriage, he contended that the couple were happily married until P-A- moved to Ghana in 2017. This is generally inconsistent with the Petitioner's statements that he stayed with P-A- due to E-'s abuse. Additionally, P-A-'s letter did not provide details to shed additional light on the

Petitioner's living situation, such as the dates or frequency with which the Petitioner resided at his home. P-A-'s letter also does not specify when in 2017 he moved to Ghana or otherwise address the Petitioner's assertion that he again needed to stay with P-A-, ostensibly on a more permanent basis, after E- kicked him out of the couple's home in the same year. Finally, the Petitioner asserted that this arrangement was the reason he provided P-A-'s address to his employer as his own in February 2017, during the timeframe he claimed he was living with E-, which further suggests that he was not actually living with E- as he claimed.

The record on appeal does not overcome these discrepancies in the Petitioner's statements and evidence, undermining his assertions of his joint residence with E-. On appeal, the Petitioner asserts that he did jointly reside with E- on East [] Avenue. In a new self-affidavit, he states that he believes he was recognized during a site visit to P-A-'s address because he began staying there more regularly sometime after March 2017. However, this does not explain, as noted by the Director, why a USCIS site visit indicated that the Petitioner had been living at P-A-'s address since approximately February 2017. Accordingly, the Petitioner has not resolved this inconsistency on appeal. The Petitioner also provides a brief and additional evidence on appeal, specifically a letter from the apartment management company on East [] Avenue, a letter from the Social Security Administration addressed to him at that address, and new support letters from friends. Nevertheless, these letters have limited probative value as they are general in nature, lack specific details of any of the occasions mentioned, and do not provide any description of the actual residence evincing the Petitioner's life there with E-; only one indicates that the author spent time at the claimed joint residence.² Similarly, the correspondence the Petitioner submits is merely addressed to him at the address he claimed to have shared with E- and does not elaborate on whether he actually resided there.

As such, the Petitioner has not demonstrated by a preponderance of the evidence that he and E- resided together. 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).

B. Other Eligibility Issues

Further, the Director also determined that the Petitioner had not established that he entered into the qualifying relationship in good faith. As the Petitioner's inability to establish that he resided with E- is dispositive of his appeal, 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 unnecessary to the results they reach"); see also

² The letter on appeal from E-K- stated that he was present at the Petitioner's marriage ceremony. This appears to conflict with the Petitioner's self-affidavit in which he stated that in addition to E-'s relatives, one friend, N- was present at their marriage.

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 established that he resided with his U.S. citizen spouse, as required. Consequently, he has not demonstrated his eligibility for immigrant classification under VAWA.

ORDER: The appeal is dismissed.