



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

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

In Re: 25172005

Date: MAR. 30, 2023

Appeal of Vermont Service Center Decision

Form I-360, Petition for Abused Spouse of U.S. Citizen or Lawful Permanent Resident

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 Amerasian, Widow(er), or Special Immigrant (VAWA petition). The matter is now before us on appeal. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if they demonstrate, among other requirements, that they entered into the marriage in good faith and were battered or subjected to extreme cruelty perpetrated by the spouse. Section 204(a)(1)(A)(iii)(I) of the Act. Evidence of a good faith marriage may include documents showing that one spouse has been listed as the other's spouse on insurance policies, property leases, income tax forms, or bank accounts; evidence regarding their courtship, wedding ceremony, shared residence, and experiences; birth certificates of any children born during the marriage; police, medical, or court documents providing information about the relationship; affidavits from individuals with personal knowledge of the relationship; and any other credible evidence. 8 C.F.R. § 204.2(c)(2)(i), (vii). While we must consider any credible evidence relevant to the VAWA self-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 Act bars approval of a VAWA petition if the petitioner entered into the marriage giving rise to the petition while in exclusion or deportation proceedings, unless the petitioner has resided outside the United States for a period of two years after the date of marriage or establishes by clear and convincing evidence that the marriage was entered into in good faith. *See* sections 204(g) and 245(e)(3) of the Act, 8 U.S.C. §§ 1154(g) and 1255(e)(3) (outlining the restriction on, and exception to, marriages entered into while in exclusion or deportation proceedings); *see also* 8 C.F.R. § 204.2(c)(1)(iv) (providing that a self-petitioner "is required to comply with the provisions of . . . section 204(g) of the Act"). Clear and convincing evidence is that which, while not "not necessarily conclusive, . . . will

produce in the mind . . . a firm belief or conviction, or . . . that degree of proof which is more than a preponderance but less than beyond a reasonable doubt.” *Matter of Carrubba*, 11 I&N Dec. 914, 917 (BIA 1966).

The Petitioner, a native and citizen of El Salvador, was placed in removal proceedings in 2014. She married her U.S. citizen spouse, J-C-,¹ in [] 2016. The Petitioner subsequently filed her VAWA petition in June 2019. The Director denied the petition, finding that the Petitioner had not met her burden of establishing by clear and convincing evidence that she entered into marriage with J-C- in good faith, as required by section 204(g), because the Petitioner married her spouse while in removal proceedings, and she did not establish her eligibility for immigrant classification under section 201(b)(2)(A)(i) of the Act. Specifically, the Director determined that the Petitioner’s affidavits, the marriage certificate, photographs, and the third-party affidavits of support lacked probative details related to the Petitioner’s intent when entering into the marriage with J-C- , did not sufficiently detail the development of the Petitioner’s relationship with J-C- and circumstances and events demonstrating the Petitioner’s involvement in the marriage, and failed to substantively establish shared experiences.

On appeal, the Petitioner contends that the Director did not give sufficient weight to the documentation submitted as proof of her and J-C-’s good faith marriage. In support of her contention, she submits an undated and unsigned affidavit; an undated and unsigned declaration from her daughter; police documents pertaining to the abuse of the Petitioner by J-C-; and phone, automobile, auto insurance and utility bills referencing J-C-’s name and address. Upon de novo review, we find that the Petitioner has not established by clear and convincing evidence that she married J-C- in good faith.

The Petitioner’s affidavits submitted with the petition and on appeal address her initial courtship with J-C- in a general manner, describing how they met at McDonald’s in May 2015, talked every day, fell in love as time went by, and married in [] 2016. The affidavits provide little additional insight into the Petitioner’s intentions in marrying J-C-, their courtship, or the dynamics of the marriage. The affidavits also provide little detail of mutual interests or circumstances and events demonstrating the Petitioner’s involvement prior to or during the marriage. The affidavits also do not offer any specific information regarding the Petitioner’s residence with J-C-, such as details of the residence, home furnishings, daily routines, or any of their belongings. The third-party affidavits in the record and on appeal are similarly vague regarding the Petitioner’s courtship and marriage to J-C-. With regard to the photographs, they depict the Petitioner and J-C- together but are not dated or labeled and do not otherwise provide context for or insight into things the couple did together, their shared experiences, or events they attended together.

Regarding the submitted bills, the documentation does not establish the commingling of resources and shared financial responsibilities normally associated with a bona fide marriage; notably, the bills submitted on appeal are addressed to J-C- and do not reference the Petitioner in any way. The record does not contain any documentation that establishes the types of financial transactions normally associated with a bona fide marriage, such as rental, utility, grocery, or insurance payments.

Because the Petitioner entered into marriage while in removal proceedings, the Petitioner must establish by clear and convincing evidence that she entered into marriage with J-C- in good faith. As

¹ Initials are used to protect the privacy of individuals.

discussed above, considering the lack of probative evidence, the Petitioner has not met her burden. Therefore, she has not established her eligibility for immigrant classification under VAWA.

ORDER: The appeal is dismissed.