



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

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

In Re: 19957135

Date: SEPT. 8, 2023

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. See Immigration and Nationality Act (the Act) section 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii). Under the Violence Against Women Act (VAWA), an abused spouse may self-petition as an immediate relative rather than remain with or rely upon an abuser to secure immigration benefits.

The Director of the Vermont Service Center denied the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition), concluding that the record did not establish the Petitioner's: (1) good faith entry into marriage; and (2) residence with his U.S. citizen spouse.

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.

**I. LAW**

A petitioner who is the spouse of a U.S. citizen may self-petition for immigrant classification if the petitioner demonstrates, in part, that he was in a qualifying relationship as the spouse of a U.S. citizen, is eligible for immigrant classification based on this qualifying relationship, entered into the marriage with the U.S. citizen spouse in good faith and was battered or subjected to extreme cruelty perpetrated by the petitioner's spouse. Section 204(a)(1)(A)(iii) of the Act. The petition may not be approved if the petitioner 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); *see also* 3 *USCIS Policy Manual* D.2(C), <https://www.uscis.gov/policy-manual> (explaining, in policy guidance, that the self-petitioning spouse must show that at the time of the marriage, they intended to establish a life together with the U.S. citizen spouse).

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)(vii).

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).

## II. ANALYSIS

The Petitioner is a native and citizen of Nigeria who divorced his first spouse, O-S-, in Nigeria in [REDACTED] 2015. He subsequently entered the United States on a visitor's visa in January 2016, married a U.S. citizen named S-R-<sup>1</sup> in [REDACTED] 2016, and divorced her in [REDACTED] 2017. The Petitioner married his third spouse, a U.S. citizen named A-L-, in [REDACTED] 2017. In January 2018, A-L- filed a Form I-130, Petition for Alien Relative, on his behalf, and the Petitioner concurrently filed a Form I-485, Application to Register Permanent Residence or Adjust Status. In May 2019, the Petitioner filed this VAWA petition based on his marriage to A-L-. On his VAWA petition, the Petitioner claimed that he had shared a marital residence with A-L- at an apartment on [REDACTED] [REDACTED] Texas from December 26, 2017, to April 10, 2018.

The Director subsequently denied the VAWA petition, concluding, in pertinent part, that the Petitioner had not established that he entered into marriage with A-L- in good faith. The Director explained that the Petitioner's self-affidavits included descriptions of how he met, dated, and married A-L-, but apart from the claimed abuse, the affidavits did not offer specific information regarding his residence with her and her children, nor did he provide sufficient details about the development of their relationship, their courtship, shared experiences before or after their marriage, or about his thoughts or intentions upon entering into marriage with A-L-. The Director also acknowledged the supporting affidavits in the record indicated that the affiants had asserted that they knew the Petitioner and A-L- to be a true couple but noted the statements in the affidavits were vague and did not contain probative details regarding their interactions with the couple or any specific details about their personal knowledge about the couple's marriage.

In the denial, the Director further discussed several inconsistencies in the Petitioner's documentary evidence submitted in support of his claim of good-faith marital intentions and stated that the Petitioner's car insurance documents contain inconsistent information. One car insurance statement for the period of November 2017 to May 2018 lists the Petitioner as the primary driver, names A-L- as an additional driver, and relates to the December 2017 to April 2018 period of time that the Petitioner claimed to have shared a marital residence with A-L- in [REDACTED]. However, the car insurance statement reflects that the Petitioner's address was on [REDACTED] Texas whereas the Petitioner claimed to have shared a marital address with A-L- in [REDACTED] a distance of approximately 200 miles away.<sup>2</sup> Moreover, the car insurance statement for the November 2017 to May 2018 period includes two additional drivers on the policy, including the Petitioner's first spouse, O-S-, whom he claimed to have divorced in Nigeria in 2015. The Director also noted that a second car insurance statement lists the marital residence address on [REDACTED].

<sup>1</sup> Initials are used to protect the identities of the individuals.

<sup>2</sup> [https://www.travelmath.com/drive-distance/from/\[REDACTED\]](https://www.travelmath.com/drive-distance/from/[REDACTED]) Aug. 21, 2023.

and did not include O-S-. However, the Director stated that a USCIS investigation indicated that the car insurance documentation the Petitioner had submitted was altered so that the Petitioner's address was changed from [redacted] and his former spouse, O-S-, was removed. The Director emphasized that the car insurance documents that the Petitioner had provided were not issued by the issuing insurance agency, and therefore did not carry sufficient evidentiary weight to show that the Petitioner married A-L- in good faith.

In the denial, the Director acknowledged the Petitioner's explanation that the lease for the claimed marital residence in [redacted] was in the Petitioner's name and not in A-L-'s name because of her criminal history; however, the Director also noted that A-L- was not listed as an *occupant* of the premises in the relevant section of the lease agreement. The Director also noted that the Petitioner had specifically indicated that the leasing office could not perform a background check on him that was required for the lease yet the lease is in the Petitioner's name.<sup>3</sup> Finally, the Director considered other evidence, including an energy company billing statement, an energy use log, and other car insurance information that post-dated the Petitioner's relationship with A-L-, but concluded that this did not sufficiently provide any insight into the Petitioner's marital intentions.

On appeal, the Petitioner reasserts his claim to have entered into marriage with A-L- in good faith and submits a brief. Upon de novo review, we adopt and affirm the Director's decision with the comments below. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

The arguments made by the Petitioner on appeal are not sufficient to establish his good-faith entry into marriage to A-L-. The Petitioner suggests on appeal that the Director's decision appears to fault the Petitioner for not providing specific primary evidence, whereas he is permitted to submit evidence that meets the "any credible evidence" standard of proof for VAWA petitions. Although the Petitioner is correct that we must consider any credible evidence relevant to a 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). Here, the Director did not require that the Petitioner provide any specific form of evidence and instead considered all of the evidence that the Petitioner chose to provide. We find no error in the Director's determination that the evidence the Petitioner submitted was not sufficient to satisfy his burden of proof. While our review of the Petitioner's statements indicates that they provide some details regarding his and A-L-'s initial meeting, courtship, proposal, and relationship, overall we agree with the Director that the statements lack specific, probative details that provide insight into the Petitioner's marital intentions toward A-L- prior to and during their marriage. Consequently, his statements are not sufficient to establish his good faith marital intentions, particularly in light of the unresolved inconsistencies noted by the Director in the record.

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<sup>3</sup> The Petitioner claimed that he did not have a social security number and therefore the leasing office could not conduct a background check on him.

On appeal, the Petitioner also claims that the Director's decision is pretextual, violates his due process rights, and goes against the regulation at 8 C.F.R. § 103.2(b)(16) in that the Director concluded that the record contained inconsistencies and discrepancies but failed to identify them and therefore denied the Petitioner the opportunity to clarify any issues. As an initial matter, even apart from any inconsistencies in the record, we emphasize that the Director concluded that the Petitioner's statements lack probative information establishing his good-faith marital intentions, and the remaining documentary evidence the Petitioner provided does not sufficiently establish his marital intentions in the absence of such probative testimony.

Further, contrary to his assertions on appeal, our review indicates the Director's RFE specifically outlined discrepancies in the Petitioner's evidence with respect to his car insurance and afforded him an opportunity to respond. As the Director explained, the Petitioner's response did not resolve the discrepancies showing that his insurance had address discrepancies and additional drivers, including the Petitioner's former spouse, who did not appear to reside with him. Moreover, the Director advised that a USCIS investigation revealed that the car insurance documentation was altered with respect to the Petitioner's claimed address, the names of the individuals included in the coverage, and was not issued by the insurance company.

Moreover, the Director discussed additional discrepancies in the lease arrangement, including that the Petitioner claimed A-L- was not listed as a cosigner or an occupant on the lease agreement for the apartment on [REDACTED] apartment in [REDACTED] because she had a criminal history, but also stated that the leasing office could not run a background check on him even though his name was on the lease. Thus, his explanation as to why A-L- could not be listed as even an occupant on the leasing agreement does not account for the fact that neither he nor A-L- passed a background check. Based on the inconsistencies and contradictory evidence discussed in the Director's decision in addition to the fact that at least some of the Petitioner's relevant car insurance evidence appears to be false, the Petitioner has not shown that he entered into his marriage with A-L- in good faith, as required.

The Director further determined that the Petitioner had not demonstrated that he resided with A-L, as required by section 204(a)(1)(A)(iii)(II)(dd) of the Act. As the Petitioner's inability to establish that he married A-L- in good faith is dispositive of his appeal, we decline to reach and hereby reserve the Petitioner's appellate argument on this issue. *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 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, the Petitioner has not established by a preponderance of the evidence that he entered into marriage to his U.S. citizen spouse, A-L, in good faith. Consequently, he has not demonstrated that he is eligible for immigrant classification pursuant to VAWA.

**ORDER:** The appeal is dismissed.