



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

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

In Re: 21585126

Date: MAR. 3, 2022

Certification of Vermont Service Center Decision

Form 1-360, Petition for Abused Spouse or Child of Lawful Permanent Resident

The Petitioner seeks immigrant classification as an abused spouse of a lawful permanent resident of the United States under the Violence Against Women Act (VAWA) provisions codified at section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(B)(ii). The Director of the Vermont Service Center denied the Form 1-360, Petition for Amerasian, Widow(er), or Special Immigrant (VAWA petition). We remanded the Petitioner's appeal to the Director for the entry of a new decision and requested certification if the decision was adverse to the Petitioner. The matter is now before us on certification. The Administrative Appeals Office reviews 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 affirm the Director's decision denying the petition.

I. LAW

Petitioners who are spouses of lawful permanent residents of the United States may self-petition for immigrant classification if they demonstrate that they entered into marriage with the lawful permanent resident in good faith and that, during the marriage, they or their child were battered or subjected to extreme cruelty perpetrated by their lawful permanent resident spouse. Section 204(a)(1)(B)(ii)(I) of the Act; 8 C.F.R. § 204.2(c)(1)(i)(E), (H).

The Act bars approval of a VAWA petition if the petitioner entered into the marriage giving rise to the petition while in removal proceedings, unless the petitioner establishes by clear and convincing evidence that the marriage was entered into in good faith and not solely for immigration purposes. *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 removal 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).

Petitioners may submit any credible evidence relevant to the VAWA petition for us to consider; however, we determine, in our sole discretion, the credibility of and the weight to give such evidence.

Section 204(a)(1)(J) of the Act; 8 C.F.R. § 204.2(c)(2)(i). Petitioners bear the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

II. ANALYSIS

A. Procedural History

The Director denied the VAWA petition, concluding the Petitioner did not establish a qualifying relationship; eligibility for immigrant classification; or demonstrate he entered into marriage with his spouse in good faith, resided with her, and that she subjected him to battery or extreme cruelty. The Director further concluded approval of the VAWA petition was barred under sections 204(c) and 204(g) of the Act. Upon appeal, we determined the Petitioner had established a qualifying relationship to a lawful permanent resident and accordingly eligibility for immigrant classification. We remanded this matter for the Director to provide analysis in support of her additional conclusions regarding the Petitioner's ineligibility for VAWA classification. In addition, we requested certification if the new decision was adverse to the Petitioner. The Director issued a new decision finding the Petitioner ineligible for VAWA classification, concluding the Petitioner is precluded from VAWA eligibility because the Petitioner entered into marriage with S-M-¹ with the purpose of circumventing immigration laws, and entered into marriage with J-A- while in removal proceedings without demonstrating by clear and convincing evidence that he entered that marriage in good faith. The matter is now before us on certification.

B. Good Faith Marriage

The Petitioner, a native and citizen of Peru, was placed into removal proceedings in [] 2007. The Petitioner married his lawful permanent resident spouse in [] 2012, while he was in removal proceedings. The Petitioner subsequently filed his VAWA petition in September 2014. The Director determined the Petitioner had not met his burden of establishing by clear and convincing evidence that he entered into marriage with J-A- in good faith, as required by section 204(g) since the Petitioner married his spouse while in removal proceedings.

The Petitioner asserts he married J-A- in good faith and believed they could make a life together with their commonalities of background, age and culture, working hard, and a belief in the importance of family. In relevant part, the record contains affidavits from the Petitioner; a psychological evaluation for the Petitioner; photographs of the Petitioner and J-A- from their wedding day; affidavits from N-P-, F-J-L-M-, D-S-A-, and R-R-C-; the Petitioner's driver's license; and marriage and divorce certificates for the Petitioner and J-A-.

The Director determined the Petitioner's affidavits did not sufficiently detail the development of the Petitioner's relationship with J-A- or substantively describe positive shared experiences. The Director also found that the affidavits submitted on the Petitioner's behalf described the Petitioner's relationship with J-A- only in general terms and did not include probative details of the Petitioner's interactions with or feelings for J-A- during their courtship and marriage. In addition, the Director

¹ Initials are used to protect the privacy of this individual.

determined the submitted photographs of the Petitioner and J-A- represent only a single event and merely corroborate that a wedding took place between them. The Petitioner argues he has demonstrated his residence with J-A- through their marriage certificate and his driver's license, and that part of the abuse he suffered was the loss of nearly all his documentation.

We adopt and affirm the Director's decision insofar as the Director determined the Petitioner has not established by clear and convincing evidence that he married J-A- in good faith. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Chen v. INS*, 87 F.3d 5, 7-8 (1st Cir. 1996) ("we join eight of our sister circuits in ruling that the Board [of Immigration Appeals] need not write at length merely to repeat the IJ's [Immigration Judge's] findings of fact and his reasons for denying the requested relief, but, rather, having given individualized consideration to a particular case, may simply state that it affirms the IJ's decision for the reasons set forth in that decision."). The Petitioner's arguments on appeal are not sufficient, standing alone or viewed in totality with the underlying record, to meet his burden of establishing he married J-A- in good faith. We initially note that though the Petitioner's marriage certificate to J-A- indicates a common address, the driver's license he submits in support of a shared residence reflects a different address, a claimed shared address S-M-. Further, the Petitioner's affidavits address his initial courtship with J-A- only in a vague and general manner. He states met J-A- in July 2010 during a building lunch, it was love at first sight, and they decided the best way to be together was in the United States. The description of this courtship does not contain detail demonstrating the Petitioner's intent in entering marriage with J-A-. Rather, the Petitioner's affidavits contain detail only insofar as it relates to claimed abuse by J-A- but offers little insight into the relationship prior to and during their marriage. Similarly, the four affidavits submitted by the Petitioner's friends and brother are similarly vague regarding the Petitioner's courtship and marriage to J-A-, except as they contain detail relating to claimed abuse. In whole, these affidavits do not sufficiently demonstrate the Petitioner's intention in entering marriage or the *bona fides* of his marital relationship. We further concur with the Director that the Petitioner's photographs with J-A- serve only to corroborate their marriage certificate as they depict photos from their wedding day. In addition, the psychological evaluation for the Petitioner, based on self-reporting, presents a discrepancy concerning the Petitioner's relationship with J-A-. As stated above, the Petitioner indicated in his affidavit that when he met J-A-, "it was love at first sight for me and then together we fell in love.". However, the Petitioner's psychological evaluation states that the Petitioner was friends with J-A- for many years before their friendship developed into something more and they began courting. We note the record does not contain any evidence of commingling of financials or other responsibilities between the Petitioner and J-A-, and the Petitioner claims he is unable to provide further evidence in support of the VAWA petition due to the abuse he suffered. The Petitioner does not allege that such commingling of financials and responsibilities actually took place in his marriage with J-A- and does not clarify how the lack of submitted documentation resulted from abuse that he suffered. As stated, the Petitioner must establish by *clear and convincing evidence* that he entered into marriage with J-A- in good faith, as he entered into marriage while in immigration removal proceedings. Overall, due to the lack of relevant, probative evidence and a discrepancy in the record, the Petitioner has not demonstrated the record is sufficient to establish he met this burden.

Since the identified basis for denial is dispositive of this matter, we decline to reach and hereby reserve the Petitioner's arguments regarding whether he is subject to section 204(c) of the Act for marrying S-A- for the purpose of evading the immigration laws. *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 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).

ORDER: The petition is denied.